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Australian Government
Department of Immigration and Border Protection

Submission

For information
PDMS Ref. Number MS17-002065

To Minister for Immigration and Border Protection

Subject Immigration Reform – market engagement on visa service delivery

Timing s. 34(1)(c)

Recommendations

That you:

1. Note that the Department is currently preparing for release of a market consultation paper (MCP) on transformation of visa service delivery. noted / discuss
2. s.34(1)(c) noted / discuss
3. Note that the MCP will seek market feedback on a range of key areas, including potential for user pays commercialisation opportunities noted / discuss

Minister for Immigration and Border Protection

s22(1)(a)(ii)

Signature.....

Date: 15/06/2017

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Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues


1. On 9 May 2017 the Government announced it was initiating a long-term programme of work to enhance the visa system, including engaging with the market to explore new technologies to transform visa service delivery.
2. The Department is preparing to release a consultation paper to the market as the first step in a deep market engagement and potential procurement process for the delivery of visa services for Australia.
3. s.34(1)(c)
4. The consultation will test the proposition that the Department can partner with the market to deliver visa services, across eight contestable bundles delivered in three stages, as follows:
 - Stage A - the design, build and run of a new global digital processing platform for visas (initially to process temporary visas only) and temporary visa assessment services including verification of documents, coordinating character checks such as police checks, assessing genuineness of intention to travel in line with visa requirements, including onshore and offshore health checks
 - Stage B - human-facing client services, data collection and verification services
 - Stage C - extending the use of the global digital processing platform for visas and market-provided assessment services to include provisional and permanent visas.
5. s. 34(1)(c)

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6. The consultation is a non-competitive process. The paper will be made available through Austender, however access will not be restricted.
7. The Department has developed an engagement strategy to support market consultation. This includes promotion of the release of the paper with key media outlets, alerting companies with the required capabilities and potential interest to the consultation, and industry briefings in key locations.

8. s. 34(1)(c)



9. s.34(1)(c)



10.




11. A final draft of the consultation paper is included at Attachment B.

Background

12. The Department has commenced work on reforming delivery of the visa system as announced in the 2017-18 Budget.

13. s. 34(1)(c)



14. Work is underway to ensure that the Department can successfully complete early deliverables, including engagement with the market on the potential for it to play a greater role in visa service delivery.
15. The initial step of the process is market consultation, a non-competitive process, to gain market feedback on propositions, risks and clarify ambiguities, before a competitive Expression of Interest process.

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Consultation – internal/external

16. N/a

Consultation – Secretary/Commissioner

17. The Secretary and Commissioner are aware of the approach in this Submission.


Client service implications

18. Nil at present.

Sensitivities

19. Partnering with the market to deliver visa services is intended to better manage risk, increase efficiency in processing and improve the visa applicant experience. While this is not an outright outsourcing exercise, it is likely that the CPSU will try to link this to significant job losses.

20. s. 34(1)(c)



21. Current vendors already engaged by the Department may have some concerns, about possible effects on their existing contracts, and are a focus of our communication plan.

22. A comprehensive package of materials has been developed to respond to any of these concerns.

Financial/systems/legislation/deregulation implications

23. The Department will assess and identify the full nature of ICT changes in second pass submissions, following engagement with the market.

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Attachments

Attachment A: s. 34(1)(c)

Attachment B Draft market consultation paper

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Cleared by: s. 22(1)(a)(ii)
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Through A/g Deputy Secretary, Visa and Citizenship Services Group s. 22(1)(a)(ii) 5/6/17

CC Secretary
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Deputy Secretary, Intelligence and Capability Group
Chief Financial Officer
Chief Information Officer
FAS, Immigration and Citizenship Policy Division
FAS, Intelligence Division
FAS, Visa and Citizenship Management Division
FAS, Identity and Biometrics Division

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ATTACHMENT A


s. 34(1)(c)



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s. 34(1)(c)



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Australian Government
Department of Immigration
and Border Protection

Delivering visa services for Australia

Market Consultation Paper

June 2017

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1. Market Consultation

The Government has announced it is modernising the way Australia delivers its visa and citizenship services to over **8 million** applicants per annum.

The visa and citizenship system is under growing pressure with the Department of Immigration and Border Protection (the Department) managing never before seen volumes of visa applications and travellers. Volumes of visa and citizenship applications are forecast to increase by **around 50 per cent** by 2026-27, to around **13 million** visa applications per annum.

Against this background, the Department is seeking to engage with the market to explore innovative solutions to help design and build a new visa processing platform and to investigate ways to create a sustainable and innovative service delivery model. The purpose of this paper is to gain market feedback on the Department's initial thinking. This is a once-in-a-generation opportunity for the market to influence the design of Australia's visa service delivery business.

The Department envisages that by leveraging the capability and technology available in private industry it can improve services for visa applicants while becoming more efficient. However, the Department would continue to retain sovereign functions, including manual visa decision making and key security checks.

Many departmental services share similarities with services provided by other high volume, large scale and high tempo businesses. The Department encourages participation from a diverse range of potential providers, large and small, including business process specialists, technology infrastructure and enterprise software experts, biometrics enrolment and verification providers, industry specific business processing or software vendors, robotics automation and artificial intelligence innovators.

This consultation is non-competitive. Responses will not advantage or disadvantage prospective tenderers in any future competitive tenders for visa service delivery.

Prospective tenderers will not be evaluated based on any response. Responses are expected to influence next steps, including the sourcing and co-design process that begins with a request for Expressions of Interest (EOI) and final proposals submitted to Government when the Department seeks approval to issue any Requests for Tender (RFT). Further information on draft timelines for approaches to market are at Section 4.5.

This market consultation paper poses a number of questions for input by prospective providers. Please respond using the template here [link]. By responding to this paper you agree to the Response Terms at Section 5. The Department encourages responses to this paper as soon as possible, but no later than 30 June 2017. A series of industry briefings will be held to present material contained in this paper and provide an opportunity to answer questions. Participants must register their attendance through www.tenders.gov.au.

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1.1. Industry Briefings

Briefings will be as follows:

Location	Venue	Date	Time
Canberra			
Sydney			
Singapore			
Bangalore			
San Francisco			

1.2. Additional Questions

Additional clarification questions may be sent to visa.reform.taskforce@border.gov.au with the subject heading "Delivering visa services for Australia" up to four business days prior to the end of the market consultation period. The Department may respond to clarification questions, but does not commit to doing so. Clarification questions and responses will be made available to all market participants via AusTender.

This paper specifically relates to the reform of visa service delivery that should not be confused with other procurements and approaches to market (illustrated at Attachment A) – responses to this paper should be limited to the visa service delivery business.

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2. Overview of the Department and visa business

2.1. The Department

It is the Department's mission to protect Australia's border and manage the movement of people and goods across it. It facilitates trade, travel and migration for Australia's benefit contributing to Australia's national security, economic prosperity and cohesive multicultural society.

In 2015, the then Department of Immigration and Border Protection and the Australian Customs and Border Protection Service formally became one Department, signalling a major change in the way Australia's borders are managed.

The Department is a large scale, high tempo operation. In 2016-17, the Department expects to:

- grant over 7 million temporary visas
- manage 2.5 million client interactions, inclusive of call centre enquiries
- deliver up to 190 000 places as part of the permanent migration programme
- grant 13 750 visas under the regular permanent Refugee and Humanitarian Programme
- confer Australian citizenship on 140 000 people
- process more than 40 million international air and sea travellers
- inspect over 100 000 (out of approximately 2 million) twenty-foot equivalent unit sea cargo containers coming into Australia
- inspect 2 million out of 36 million inbound air cargo consignments
- inspect around 50 million items of mail.

2.2. The visa business

To manage the Australian border, the Department implements Australia's universal visa system, under which all travellers require a valid visa to come to Australia.

There are broadly two types of visas:

- higher volume, generally simpler, temporary entry visa products
- lower volume, longer-term migration visas requiring more complex assessment.

The Department also confers citizenship on eligible applicants.

The Government continues to look for opportunities to make visa products and visa and citizenship services simple, clear and fast.

Implementing the universal visa requirement currently involves approximately 6,000 departmental staff with about half of these staff directly involved in visa processing and decision making. Approximately two-thirds of the processing staff work in Australia and the remaining third overseas.

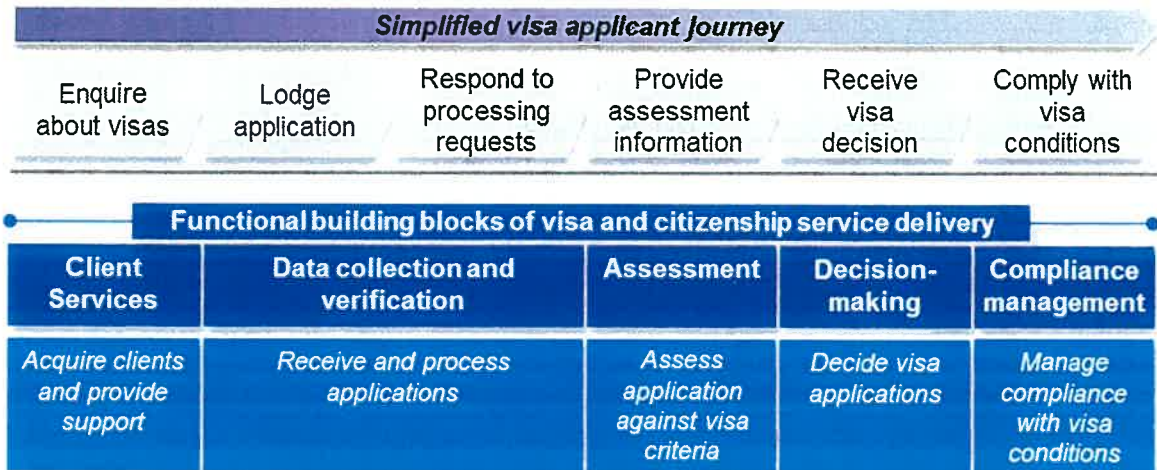
For context, the work effort in visa service delivery is roughly on the scale of other businesses with high levels of client transactions such as major Australian financial institutions. Visa and citizenship service delivery effort (including people and resources) makes up the majority of the Department's approximately \$900 million of annual Government funding for Outcome 2: the effective management of the visa and citizenship programs and provision of refugee and humanitarian assistance.

Market based service delivery partners currently deliver around 20 per cent of the visa business. Applicants pay market providers directly for services such as health checks, biometrics collection and lodgement support services (in addition to a Visa Application Charge – payable to the Commonwealth see Appendix B for details). Fees to apply vary from, for example, the fee for many Electronic Travel Authorities of \$AUD20, the fee for biometrics collection in Pakistan of between \$AUD50-\$AUD100 and the fee for lodgement at a Service Delivery Partner in China of between \$AUD30-\$AUD50.

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Figure 1: Functional view of visa service delivery and visa applicant journey



As part of the visa business, the Department manages:

- **Client services** – The Department engages with applicants, delivering services for them to enquire about and apply for a visa and/or citizenship. It supports communications while the person's application is being assessed, at the time a decision is made, and while they hold a visa. It also provides services to visa sponsors and manages queries from an applicant's family and friends. Before applying for a visa, the applicant may undertake online research, access a call centre, visit a departmental office or Visa Application Centre or seek the services of a Migration Agent.
- **Data collection and verification** - Applicants and sponsors lodge their applications online or on a paper form submitted either directly to the Department or through a third party together with supporting documentation. Most visa applicants are required to pay a tax to apply for a visa and receive a visa decision. This tax is called the Visa Application Charge ('VAC' or 'price'), which is specific to each visa. Where required, applicants also provide biometrics. Information in an application is often verified by checking against other data sources or follow-up phone call, interview or site visit. This is recorded in departmental systems.
- **Visa assessment** - Processing visa applications requires assessment of the application against a range of criteria specific to the visa. This can also include assessing application validity, genuineness, health, security, character, identity, relationship to Australian citizen or permanent resident, skills and sponsorship. Some of these assessments assist the Department in managing risks such as national security and immigration fraud. There can be criteria to be met at the time of application and at the time of the visa decision. Any interactions with the applicant, sponsor or agent, are recorded in departmental systems.
- **Visa decision-making** –The visa decision-maker makes and records their decision and communicates it to the applicant, or their representative, in line with legal requirements.
- **Visa holder compliance** – This includes assisting visa holders to remain lawfully in Australia where permitted. For example, where an accident requires them to remain in Australia until a medical practitioner assesses them as ready to travel. It also involves administering visa sponsorship arrangements under which sponsors are required to meet certain obligations.

Further information on the current visa business is outlined at [Attachment B](#).

2.3. The need for change

In the rapidly changing global operating environment, the Department is dealing with multiple challenges. These include globalisation, mass mobility with growing middle classes in emerging economies travelling more frequently, evolving threats that cross geographical boundaries and increased expectations for digital Government services.

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At the same time, the increased people and trade flows are improving economic opportunities and national prosperity as travellers make significant economic and social contributions to Australia.

This environment is leading to rapidly increasing volumes of visa applications, requirements for more sophisticated risk assessment and pressures to deliver visa and citizenship services that are more internationally competitive, efficient and user-focused.

To manage these demands without exponentially increasing costs, the Department is seeking to increase the level of market-provided and automated services of its high volume transactional business. This would enable the Department's staff to focus on the more complex elements of the visa business.

2.4. Ongoing reform of visa risk and threat assessment capability

In addition to the service delivery reforms that are the focus of this paper, the Government continues to invest in Australia's visa risk and threat assessment capabilities. It is enhancing biometrics storage and processing capabilities to enable greater volumes of biometrics matching, storing, analysis and data sharing of facial image and fingerprinting through the introduction of new technology. The Department is also expanding its ability to regularly assess risks from visa holders throughout the term of their visa. These and other planned enhancements to visa risk and threat assessment arrangements for all applicants would facilitate streamlined decision-making.

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3. Transforming the visa service delivery business

3.1. Target state

The Department's ambition is to maximise end-to-end digitisation and automation in visa processing to enable the majority of visa holders to move quickly and seamlessly across the border while becoming more efficient. The visa applicant's experience would be more streamlined, flexible and internationally competitive.

To realise its ambition, the Department hopes to leverage opportunities provided by the market and new technologies, to better manage risk, increase efficiency, improve the client experience, focus the Department on core (sovereign) responsibility and improve timeliness.

After careful strategic assessment of the current state of the visa business, the Department has formed a view of a target state (see Figure 2 below) to address the challenges it is facing and seize the opportunity to deliver world-leading client facilitation and increased efficiency in visa operations. Doing so is expected to drive substantial financial and non-financial benefits for the Australian public, applicants, the Government and the market. The target state vision for the future visa business would likely evolve and be refined, including based on input from market providers during design and implementation.

To achieve the target state vision, the Department proposes to co-design the business and technology solutions together with the market. Though solutions have not been pre-defined, later sections set out in more detail the Department's initial proposals for how the future visa business will likely evolve, and the role the market could play.

Figure 2: Summary of the visa service delivery current state and target state vision

Current state		Target state vision	
Service Delivery	Acquire clients and provide support		
	<ul style="list-style-type: none"> Geographical and product based client services Increasingly digital interaction with large residual paper based and in person interactions 	<ul style="list-style-type: none"> Differentiated service including premium options Seamless experience with 24/7 global access to visa services supported by active client acquisition function 	
	Receive and process applications		
	<ul style="list-style-type: none"> ~25% of lodgements paper-based Some use of Service Delivery Partners to collect applications 	<ul style="list-style-type: none"> Digital lodgement for all applications capturing more digital data (e.g. biometrics) Pre-population and validation of information 	
	Assess against criteria and decide visa applications		
	<ul style="list-style-type: none"> Less than 50% of decision-making is automated Large and growing volumes of visa applications, which require manual processing and decision making 	<ul style="list-style-type: none"> Efficient, streamlined service for low risk applicants Specialist resources focussed on complex decisions Aspiration of 90%+ of processing done automatically 	
	Manage compliance with visa conditions (excluding enforcement)		
	<ul style="list-style-type: none"> Reliant on human interaction Limited self-service options 	<ul style="list-style-type: none"> Increased voluntary compliance and self-service Reduced volume of compliance and enforcement cases 	
	Global footprint of locations		
	<ul style="list-style-type: none"> 60+ offices Varied procedures and processing times 	<ul style="list-style-type: none"> Flexible, consolidated global decision 'hubs' Lean 'spokes' aligned to local knowledge and need 	
Risk & Threat capabilities to be modernised (not in scope of this paper)			

3.2. Market partnership to enhance outcomes and efficiency

The Department is looking to partner in new ways with the market to design, build and run key elements of the visa business. The Department is seeking genuine collaboration with joint accountability for achieving the target state vision. This partnership is important to achieve the target state and associated benefits on-time and more efficiently.

The market could bring a number of unique advantages to modernisation of the visa business, including:

- implementation advantages
 - reducing one-off implementation costs and delivery time by deploying existing technology

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- accessing exceptional global talent to co-design and build the new business and technology systems
- delivering outcomes that meet or exceed expectations of quality, timeliness and value by adopting best-practice delivery
- ongoing advantages
 - improving client experience and efficiency by developing new and innovative service-delivery approaches
 - helping the Department unlock value for the public by providing valuable services enabled by commercialising existing and new assets
 - enabling the cost of some services to be borne by market providers and recovered directly by partners from applicants via fees set through an agreed mechanism (see Section 4.3)
 - providing premium, value-added services and/or other user-pays models that makes the visa system more sustainable

During design and delivery, the Department proposes working in integrated teams in which it brings the best people from its current operations, who understand the intricacies and nuances of the visa business, to work side-by-side with the technology and business experts of future partner(s).

Section 4 explores in more detail the potential market model for the role that partners could have in the visa business.

3.3. Integrating with departmental systems

Any future solution will need to integrate with departmental enterprise systems via APIs to provide and receive information including from enterprise capabilities (eg threat, identity and biometric capabilities) that inform the level of risk and rigour to be applied to visa service delivery.

Information, including about lodged and assessed applications (including supporting evidence), will need to be provided to departmental systems, to enable record keeping, reporting, financial reconciliation, performance management and other compliance functions.

3.4. Staging and sequencing implementation

The financial and non-financial benefits of reform can only be realised as each visa product is fully implemented end-to-end. This means having all (and only) the necessary legal, technology, business and commercial systems required to receive and process applications for each visa product available. At the same time, Government must ensure it receives value for money by retaining the option, if necessary, not to pursue later stages of reform without undermining the value and efficacy of capabilities already built.

With these considerations in mind, the Department proposes to stage delivery of visa products, building the complete end-to-end capabilities for each visa product ready for applicants to use and then progressing to deliver subsequent visa products. The Department prefers this approach because it allows:

- benefits to be realised earlier, beginning from when the first complete product is delivered and available
- Government to have sufficiently complete capabilities to allow a meaningful option to not pursue progression to later stages if deemed necessary
- opportunities to improve the approach to subsequent products based on lessons from earlier releases.

Before the Department commits to any contracts, it is proposed to spend approximately the next 18 months in stages of increasingly detailed collaborative design of the new business and technology solution with market providers. The Department will implement a number of short-term policy and service delivery interim initiatives over this period to support short-term management of increasing visa volumes.

Pending Government approval, the Department proposes to begin collaborating with partner(s) in 2019 on delivering the less complex, higher-volume temporary entry visa products on the new platform. A pilot launch of the first visa product is proposed for late 2019, followed by the first visa live in 2019-20, and all temporary visas available in 2020.

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The Department then proposes to approach the market again for additional client services and longer-term visa products. It proposes partner(s) be selected in 2021 followed by build and launch of the first longer-term product in 2021-22 with all longer-term visas and citizenship on the new platform by 2022-23.

The Department is interested in market feedback on this staging and sequencing and welcomes suggestions for alternative approaches.

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4. What role could the market have?

The Department has formed an initial view of the 'market model' needed for the visa business to involve market built and delivered services and balance the need for contestability, value and efficient integration. Market feedback is sought to help resolve key ambiguities in the initial answers to each of the questions below. Please provide responses using the template here [\[link\]](#).

This 'market model' provides an initial view on the following questions:

- Which aspects of the visa business is the market best placed to deliver?
- How should visa products, geographies and functions be bundled?
- How should bundles be commercially structured?
- What commercialisation opportunities are there in the visa business?
- How should we approach and engage potential market partners?
- What is the impact of potential provider requirements?

Please note that the cost of providing some services would be borne by market providers and recovered directly from applicants (via charges set through an agreed mechanism). See Section 4.3 for further detail on proposed commercial models.

4.1. What visa services is the market best placed to deliver?

The Department proposes the future visa business make considerably greater use of the market to benefit from specialist expertise, increased efficiency, existing solutions and capabilities, and innovative technologies. The Department would retain functions where direct control is necessary for ensuring Government sovereignty over decision-making and the protection of the Australian community.

The market currently delivers substantially end-to-end processing functions for one visa product through a partner who administers the ETA for eligible travellers. Please refer to the case study at [Attachment B](#) for further information. Additionally the Department relies on market providers for a small number of visa processing functions across all relevant visa products. One example is the approach to the health checks required for some visas, which are undertaken by the Department's medical partners.

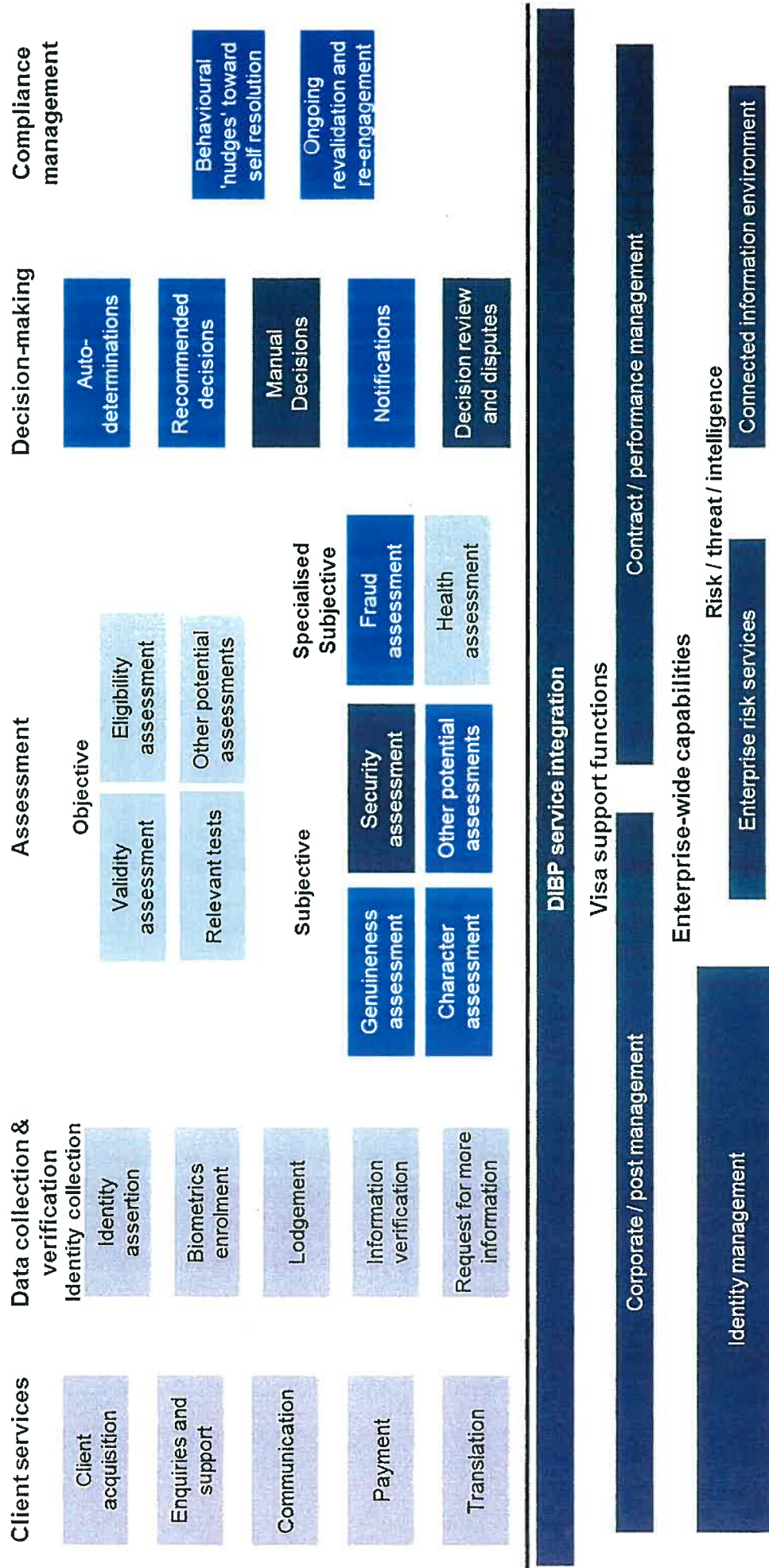
The consistency and modularity of visa products is being enhanced. The Department's initial view is that the potential for market delivery of a function would likely not vary by product or geography, though it is seeking your input on this question.

To determine the future extent of market-delivery in the visa business, the Department has assessed the business to determine functions potentially suitable for market delivery and developed an initial hypothesis outlined below.

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Figure 3: Proposed potential extent of market delivery for market feedback

- **Functions critical to retain by Government:** those functions critical for Government's sovereign responsibilities, requiring specialist departmental knowledge, a higher level of judgement, discretion and capability (or those with limited or no market interest or capability in the medium term)
- **Clear candidates for market delivery:** subject to contrary market feedback
- **Potential candidates for market delivery:** on which the Department is seeking your feedback to establish if market delivery can adequately manage risk and deliver value for money



Further detail on each of the functions in Figure 3 is outlined in the table below.

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Figure 4: Visa processing functions

Category	Function	Description
Client services	Client acquisition	Facilitating and attracting visitors and migrants to Australia including by providing general information about visas and citizenship
	Enquiries and support	Providing accessible information in response to specific enquiries by prospective and existing applicants
	Communication	Communicating effectively with existing applicants about their applications via channels such as mail and email
	Payment	Calculating and handling payment of the Visa Application Charge (VAC) and other fees and charges
	Translation	Providing applications and services in applicants' preferred language and translation of documents and conversations between foreign languages and English where required for visa processing
Data collection and verification	Identity assertion	Collecting the biometric and biographic information about an applicant and ensuring it meets the Departments quality requirements
	Biometrics enrolment	Securely forwarding the applicant's biometrics to the Department
	Lodgement	Entering provided information into processing systems (involves manual data entry in the current state for paper-based applications)
	Information verification	Ensuring the complete and correct information has been provided
	Request for more information	Requesting additional information when supplied material is insufficient or incorrect
Objective Assessment	Validity assessment	Using the supplied information, and other relevant information, to assess if the application meets legal requirements of a valid application
	Eligibility assessment	Assessing the supplied information to ensure application meets basic objective requirements to allow a decision (eg. within age limits)
	Relevant tests	Administering tests for applicants, with pre-defined questions and pass marks
	Other potential assessments	Assessing any other objectively defined criteria that are developed from time to time
Subjective assessment	Genuineness	Assessing against agreed parameters if the applicant intends to comply with the visa's purpose and conditions and their claims are genuine
	Security	Assessing whether there are any risk and threat factors to draw to the attention of the assessor
	Character	Assessing against agreed parameters if past behaviour (eg. as documented in a police record) reveals a failure to meet character criteria
	Other potential assessments	Assessing any other subjectively defined criteria that are developed from time to time
Specialised subjective assessments	Health	Assessing, often by a health care professional, if an applicant meets health criteria of the visa (eg. doesn't have a proscribed illness or disease)
	Fraud	Assessing if application contains fraudulent information or has relied on altered or bogus documentation
	Auto-determinations	Automatically refusing to accept an invalid application or determining a visa based on defined rules set by the Commonwealth

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Category	Function	Description
Decision-making	Recommended decisions	Recommend a decision that would be determined by a delegated decision-maker
	Manual decisions	Decide whether to grant a visa where assessment is ambiguous and requires human judgement or refuse a visa
	Notifications	Communicate decisions, reasoning and requests to respond to adverse findings –ensuring natural justice and other legal requirements are met
	Decision review and disputes	Preparing and forwarding information necessary for an internal or external review
Compliance with visa conditions	'Nudges' toward self-resolution	Make holders aware of their obligations and 'nudge' them towards self-compliance and resolution (eg. by applying for an extension)
	Revalidation and re-engagement	After the grant of a visa periodically monitor, re-assess and engage (excludes enforcement) holders on any conditions
Supporting functions		Includes market management capabilities such as contract and performance management, decision review and compliance and some corporate and general management functions
Service integration		Integration of the visa business and technology systems with other Department functions such as customs and border management
Enterprise capabilities		<ul style="list-style-type: none"> • Cross-Department capabilities, including identity management, intelligence, border risk assessment, status resolution and enforcement • These provide the underlying information and analysis to inform visa risk assessments • Identity management and resolution also operates as an enterprise-wide capability to which the visa business provides information and receives the output of resolution activities

4.2. How should visa products, geographies and functions be bundled?

Once the extent of market delivery has been determined, the Department proposes to bundle groups of functions for particular products and geographies that could be themarket could provide. The Department is seeking your input on the composition of these bundles to provide the correct balance between contestability, scale advantages and efficient integration.

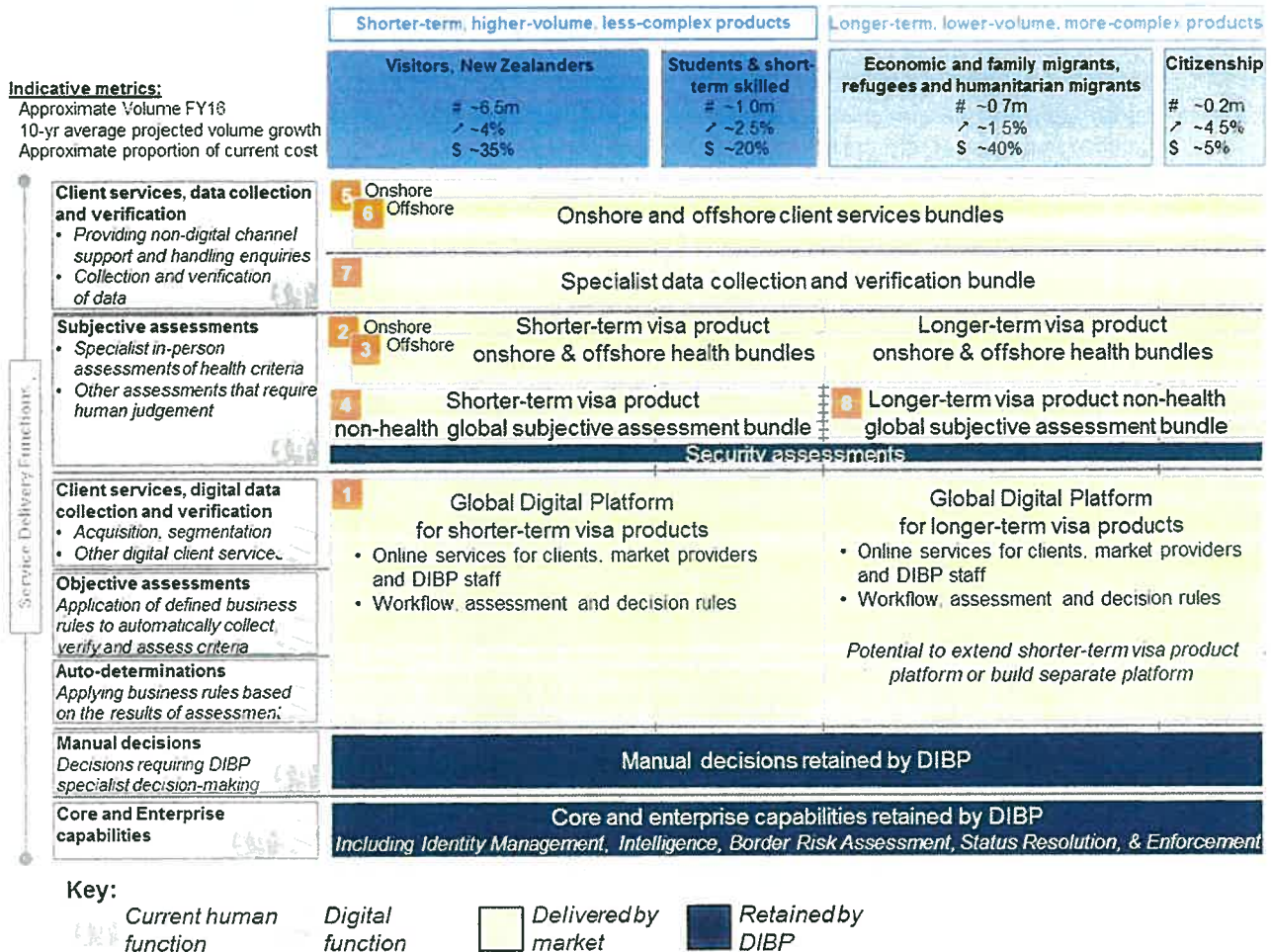
Each of the eventual bundles may be contracted separately, and may adopt a range of potential commercial models, depending in part on feedback from the market. Providers may be eligible to tender for part of, or more than, one bundle.

Figure 5 shows the initial view of eight bundles for the market provision of services in the visa business. The proposed approach to market is expected to take place over five years and across three stages. Stage A is likely to select partner(s) for proposed Bundles 1-4 for temporary products. Proposed Bundles 5-7 are likely to form Stage B, with Stage C extending Bundles 1-3 to longer-term products and add the eighth and final bundle, subjective assessments for longer-term products. This staging and sequencing reflects the initial view that market interest exists for providing functions across products and geographies, with particular interest in the higher-volume, less-complex temporary products.

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Figure 5: Proposed bundles for market delivery



Detailed description of proposed Bundle 1: Global Digital Platform

The proposed Bundle 1 would be a digital business solution that is enabled by a Global Digital Platform and supporting systems that drive the end-to-end processing workflow of the visa and citizenship business.

It would aim to provide applicants with a seamless and convenient experience including:

- online services that are accessible (eg. in a range of foreign languages to be specified) and compelling to help acquire applicants, including by segmenting and targeting potential applicants, providing information, receiving and responding to enquiries and providing support
- an online application that specifies, collects, stores, verifies and requests information and supporting evidence where required. This includes a client account and management of ongoing communications during and post-application
- scheduling and confirming appointments for interviews and other assessments
- a gateway to calculate and receive global payments
- the ability for clients to digitally provide biometrics to the standards set by the Department.

The solution will likely manage the business workflow; efficiently determining the next step in processing and assessment ensuring a fast and seamless end-to-end process. The Department expects that innovative solutions and market-supported digitisation and automation of processing will deliver substantial efficiencies compared to today. Maximising these efficiencies is expected to be a key consideration in any later design stages.

The platform would:

- provide and receive information to and from market providers of subjective assessments (see proposed Bundles 2-4, 8)
- apply rules made by the Department to automatically make objective assessment against some criteria

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- apply rules made by the Department to make automated determinations of the validity of the application at lodgement, visa grants and recommend decisions on visa applications
- provide and receive information to/from the Department through an interface that allows decision-makers to make manual or recommended decisions on visa applications
- generate and send legally-compliant notification and communication on the outcome of and reasoning for decisions, and requests for further information and invitations to comment on adverse information
- facilitate transfer of information for post-decision reviews
- provide post-decision features to allow revalidation and re-engagement and to provide self-service options for self-compliance and resolution
- does not include frontline service delivery staff and assessment staff.

The proposed Bundle 1 is estimated to have an indicative total financial value across one or more contracts of ~\$1.0b-\$2.0b over the decade to 2026-27. This includes costs for designing, building, running and improving the business platform and supporting systems. These costs would be borne by provider(s) and recouped from applicants through an agreed user-charge as they use the new platform.

The proposed Stage A approach to market includes temporary visa products only, but the systems and processes must have the capability to be expanded in later proposed stages to integrate:

- Client services, data collection and verification services (see proposed Bundles 5-7 below) proposed for Stage B.
- Technology and business solutions for longer-term products including potential extension of the Global Digital Platform, and subjective assessments (see proposed Bundle 8 below) proposed for Stage C. The platform may be expanded to longer-term products by the same, or different, provider(s) to the temporary products portion of the platform. The services required are similar, but may require more complex and extensive assessment criteria and decision rules. There may be an option to build a separate platform for longer-term visas.

This proposed bundle is likely to have important interfaces to/with:

- **Users** via an online platform with self-service options.
- **Market providers and their systems** via a portal and/or APIs to provide and receive information and collect results of subjective assessments (see proposed Bundles 2-4, 8 below).
- **Departmental staff assessors** via a dedicated portal to provide and receive information to make manual decisions.
- **Departmental enterprise systems** via APIs to provide and receive information from enterprise threat, identity and biometric capabilities that inform the level of risk and rigour to be applied. Information, including about lodged and assessed applications (including supporting evidence), will need to be provided to departmental systems, to enable record keeping, reporting, financial reconciliation, performance management and other compliance functions.
- **Client service providers** via dedicated portals and/or APIs (proposed part of Stage B).

There are a number of likely requirements for the solution and provider that will be further refined based in part on market input, but the following will likely be key requirements:

- continuous availability with appropriate performance and response times to meet departmental volumes and requirements, and a global client base accessing the system on a 24x7 basis
- role-based access and security controls to facilitate secure access to the platform by departmental and market provider personnel, and manage access to data at the Baseline up to PROTECTED level and lower classifications in line with personnel security clearances.

Detailed description of proposed Bundle 2: Onshore health assessments

The proposed Bundle 2 would cover specialist health assessments to applicants within Australia by registered health-care professionals.

This proposed Bundle 2 is estimated to have an indicative total financial value across one or more contracts of ~\$0.6b-\$1.0b over the decade to 2026-27. The cost of providing these services would be borne by provider(s) and recouped from applicants through an agreed user-charge, except in limited circumstances.

The proposed Stage A approach to market includes temporary visa products only. The Department expects relatively low volumes of assessments in Stage A, as health assessments will likely only be required onshore for clients within Australia trying to either extend their current temporary visa or transfer to a different temporary visa type. Stage C would extend the onshore specialist health assessments to applicants for longer-term visa products within Australia.

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The health assessment will be convenient and fairly priced for applicants, and will provide accurate results for the Department. This will likely require:

- registered clinics providing sufficient coverage across metropolitan and regional locations within Australia to ensure applicants do not need to travel excessively
- opening hours of clinics to follow industry standards in their respective areas (including a 24 hour service in some cases) and home visits in circumstances determined by the Department
- clinics to use robust booking systems to make it easy for applicants to make an appointment
- average wait times at the clinics to be in line with industry standards
- all staff conducting the health assessments to be appropriately qualified to ensure the assessments are comprehensive (in line with the Department's requirements), accurate and swift
- the cost to the applicant to follow industry standards for pricing.

The market provider will likely manage a network of registered clinics and will ensure a rapid and seamless health assessment process, likely including:

- taking appointments for applicants who are notified that a health assessment is required
- conducting health assessments with a qualified health-care professional in line with requirements
- entering the health assessment results to systems
- calculating required payment based on scheduled pricing
- collecting payment from applicant.

This proposed bundle will likely have important interfaces to/with:

- **users** who are notified that a health assessment is required and therefore visit a registered clinic to complete the health assessment
- **the Global Digital Platform and/or other systems** via a portal and/or APIs to collect results of the health assessment from provider systems.

Detailed description of proposed Bundle 3: Offshore health assessment

The proposed Bundle 3 would cover specialist health assessments by registered health-care professionals in locations that are reasonably available to applicants outside of Australia.

This proposed Bundle 3 is estimated to have an indicative total financial value across one or more contracts of ~\$1b-\$1.5b over the decade to 2026-27. The cost of providing these services would be borne by provider(s) and recouped from applicants through an agreed user-charge, except in limited circumstances.

The proposed Stage A approach to market includes temporary visa products only, but the intent is to extend this to longer-term products during Stage C. . Under current arrangements the vast majority of temporary visa applicants do not require a health assessment.

Similarly, to the proposed requirements of Bundle 2, the health assessment will be convenient and fairly priced for applicants, and will provide accurate results for the Department.

The provider will likely manage a tiered network of region-specific providers and sub-managers covering:

- individual health assessment network providers in regions where these capabilities currently exist (i.e., manage market providers that have health assessment networks outside of Australia)
- where health assessment network providers don't currently exist, a region-specific manager will likely be used to manage a panel of Doctors that meet the Department's required standard
- Pre-departure health screening for certain visas.

The services provided by the clinics will ensure a rapid and seamless health assessment process and have similar requirements to those for proposed Bundle 2. It will likely have important interfaces similar to those proposed for Bundle 2 above.

Detailed description of proposed Bundle 4: Non-health subjective assessments globally for all temporary visas

The proposed Bundle 4 would cover subjective assessments (other than health checks) for onshore and offshore temporary visa applicants. Many of these assessments currently require significant human involvement to process and verify information and then evaluate and make judgements about applications. The Department expects that innovative technology could reduce the level of human involvement over time and are interested in market input on these potential approaches.

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This proposed Bundle is estimated to have an indicative total financial value across one or more contracts of ~\$0.5b-\$1.5b over the decade to 2026-27. Some of the cost of providing these services may be borne by provider(s) and recouped from applicants through an agreed user-charge as they use the new platform.

At least two types of providers could be interested in this proposed Bundle, potentially forming consortia to provide an end-to-end solution:

1. **vendors with human solutions:** These solutions will continue to utilise a high level of human involvement, but will leverage market expertise to deliver equivalent outcomes at a reduced cost
2. **vendors with digital solutions:** These solutions will incorporate innovative technology, such as artificial intelligence algorithms, to potentially increase the efficacy and efficiency of the subjective assessments.

Successful providers would need to be able to use information supplied by applicants, and any other information required, to assess whether the applicants meets the criteria defined by the Department. There are at least four groups of subjective assessments that the market could potentially provide;

- i. **genuineness** of the application for a particular visa type (e.g. is the applicant applying for student visa genuinely planning on attending an Australian institution)
- ii. **character** revealed by past behaviour (e.g. does the applicant have any past criminal activity)
- iii. **fraud** in the application process or immigration system (e.g., has the applicant provided forged documents)
- iv. **other potential assessments** using defined criteria that are developed from time to time.

The subjective assessments will be timely and accurate and could involve

- collecting data required from the applicant and any other sources
- analysing information in line with requirements and make an assessment
- inputting data in system(s) so that it can be collected by the Global Digital Platform.

This proposed bundle will likely have important interfaces to/with:

- **users** who are notified that additional information is required to support their application.
 - **phone:** The applicant provides additional information during a conversation/interview with the market provider over the phone (this is more likely for market providers with human based solutions, but isn't necessarily exclusive to them, as data may be collected this way but then analysed digitally)
 - **face-to-face:** The applicant has an in-person meeting/interview with the market provider and potentially brings along any required documents for verification (this is more likely for market providers with human based solutions, but isn't necessarily exclusive to them, as data may be collected this way but then analysed digitally)
- **the Global Digital Platform via a portal and/or APIs to;**
 - receive additional applicant information that was uploaded via the online platform specifically for the subjective assessment
 - receive information from other market providers system(s) regarding other subjective assessment results (if there are different market providers for different assessments)
 - provide the results of the subjective assessment from the market provider system(s).

Detailed description of proposed Bundle 5: Onshore client services, data collection and verification

The proposed Bundle 5 would cover human-run client services, data collection and verification processes (e.g. in-person, phone) within Australia. Provider staff will support the data collection and verification for applicants, and use the Global Digital Platform to input information. This proposed Bundle is likely to include premium services for applicants, including for those who may make the highest economic contribution to Australia.

This proposed Bundle is estimated to have an indicative total financial value across one or more contracts of ~\$0.1b-\$0.6b over the decade to 2026-27. Significant portions of the cost of providing these services may be borne by provider(s) and recouped from applicants through an agreed user-charge as they use the new platform.

At least two types of provider could be interested in this proposed Bundle, potentially forming consortia to provide an end-to-end solution:

1. **client assist solutions:** These solutions will assist applicants to complete the application process, and could provide differentiated services (e.g. premium services). Such providers are also expected to work closely with organisations (e.g. sponsors) to assist them with visa applications for their stakeholders (e.g. employees)

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2. **data collection solutions:** These solutions will enable applicants to provide the required data for their visa application (e.g. collect biometrics such as finger prints, or take photos in line with requirements for applicants that don't have access to a camera).

The client services, data collection and verification will likely be differentiated to account for varying needs or on the basis of other segmentation approaches and will likely include the following functions:

- Collecting required data
- Calculating required payment based on type of service provided
- Collecting payment from applicant
- Providing service as agreed to (e.g., manage visa application on behalf of applicant)
- Inputting data in relevant systems (e.g., via the online platform, or a market provider system) so that it can be collected by the Global Digital Platform.

This proposed Bundle will likely have important interfaces to/with:

- **Individual users** who require assistance with their visa application
 - **market provider website:** Visa applicant may use the provider website to request assistance or book an appointment
 - **email:** Visa applicants may provide required information for their application via an email to enable the market provider to lodge the application on their behalf
 - **phone:** Visa applicants may contact the provider via phone to request assistance or make an appointment. In addition to this, the provider could contact the applicant to request further information for the application
 - **face-to-face:** Visa applicants may meet in-person with the provider and bring along the required documentation to enable an application to be lodged, or collect the necessary data (e.g., biometrics).
- **Organisations** that require assistance with the visa applications for their employees
 - **APIs that interact with an organisation's system(s):** Providing seamless integration to assist organisations with visa compliance and rapid, automated processing
 - **other interfaces** as per the individual organisations.
- **The Global Digital Platform**
 - **via an online portal to;**
 - Create a visa application
 - Review the status of a visa application
 - Upload additional information to a visa application (if required)
 - **via a portal and/or APIs to;**
 - Provide additional data (e.g., biometrics) from other systems.

Detailed description of proposed Bundle 6: Offshore client services, data collection and verification

The proposed Bundle 6 would be as per Bundle 5, but for offshore visa applicants.

It is estimated to have an indicative total financial value across one or more contracts of ~\$0.3b-\$0.8b over the decade to 2026-27. Significant portions of the cost of providing these services may be borne by provider(s) and recouped from applicants through an agreed user-charge as they use the new platform.

Detailed description of proposed Bundle 7: Specialist data collection and verification globally

The proposed Bundle 7 would cover specialist data collection and verification requiring specialised capabilities eg engagement with international stakeholders. This may be part of an international organisation's unique proposition to collect and verify data from applicants or other sources including in otherwise inaccessible geographies or particularly complex working environments.

The specialist data collection and verification could require close relationships with international stakeholders and/or the ability to operate in inaccessible geographies and could include the following functions:

- reviewing information provided by visa applicants
- calculating required payment based on the work that needs to be undertaken
- collecting payment from applicant
- contacting relevant international stakeholders or official data sources to obtain or verify necessary information
- recording findings and/or documents in the Global Digital Platform online portal.

This proposed bundle could have important interfaces to/with:

- **international stakeholders and other official data sources**
 - **Email:** to gather or verify information supplied by visa applicants
 - **Phone:** to request a meeting and/ or gather or verify information supplied by visa applicants

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- **Face-to-face:** to gather information or verify (e.g. sight) documentation.
- **the Global Digital Platform via a portal and/or APIs to;**
 - Receive any pertinent visa applicant data
 - Upload relevant data or assessment outcomes in line with the Department's requirements.

Detailed description of proposed Bundle 8: Subjective assessments globally for longer-term visas

The proposed Bundle 8 would likely have similar users, interfaces and requirements to the proposed Bundle 4. The subjective assessments would be for the longer-term visa products introduced as part of Stage C. These products are likely to involve additional or more complex criteria.

Proposed bundle 8 is estimated to have an indicative total financial value across one or more contracts of ~\$0.7b-\$1.4b over the decade to 2026-27. Some of the cost of providing these services may be borne by provider(s) and recouped from applicants through an agreed user-charge as they use the new platform.

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4.3. How should bundles be commercially structured?

Each bundle that is contracted to the market would need an appropriate commercial model to determine how the Department and its future partner(s) agree on pricing, assess performance, and define ownership of underlying tangible and intangible assets. These commercial models are likely to vary between bundles and may evolve.

An essential feature of the partnerships would be for the cost of providing some services to be recouped directly by partners from applicants via charges set through an agreed mechanism. The Department is interested in market feedback on how to approach these charges, including the services for which the applicant would be charged and how they should be presented to applicants. Ownership of the underlying tangible and intangible assets used and created by partnership(s) is an open question on which the Department would like input. It is also seeking feedback on the impact of particular ownership models on your interest.

The Department expects significant opportunities for re-using existing or off-the-shelf technology that meets its requirements while lowering costs and improving the process of designing and providing services across all proposed bundles. Given this, the Department wants to know how providers would approach sharing these savings with the Commonwealth. The Department also anticipates opportunities for providers to re-use technology, assets or know-how developed while building and running the visa business. It wants to know about the market's ability to take advantage of these opportunities and how the future benefits might be shared with the Commonwealth.

Detailed description of initial view of commercial models for each proposed bundle

Figure 6: initial view of the potential commercial models for each proposed bundle

Proposed bundle	Current Approach	Potential future pricing & performance	Potential agreement approach
1. Global Digital Platform for temporary visas	<ul style="list-style-type: none"> Internally ICT owned and operated systems ETA processing is provided by a market partner 	<ul style="list-style-type: none"> Build and run costs to be re-couped from users via an agreed service fee Initially input-based cost calculation (eg time/materials) Eventually fixed, output-based cost calculation (e.g. amount per visa application) Performance incentives Market co-investment in build cost 	<ul style="list-style-type: none"> Contract with reform partner for design, build & run Asset ownership to be investigated in the context of user-charging
2. Onshore health assessments	<ul style="list-style-type: none"> User-pays contract based on fixed price list 	<ul style="list-style-type: none"> Costs to be re-couped from users via an agreed service fee Output-based fixed prices for assessments Potentially input-based pricing for vetting, audit and management of offshore panel 	<ul style="list-style-type: none"> Contract – potentially including management of offshore panel
3. Offshore health assessments	<ul style="list-style-type: none"> User-pays panel physician network 	<ul style="list-style-type: none"> Costs to be recouped from users via an agreed service fee Output-based fixed prices for health assessments 	<ul style="list-style-type: none"> Panel physician network potentially shared with other nations
4. Subjective assessments for temporary visas	<ul style="list-style-type: none"> Internally delivered functions Human-performed 	<ul style="list-style-type: none"> Output-based, fixed prices (e.g. fee per assessment) Incentives for service standards Potentially user-pays to recoup costs 	<ul style="list-style-type: none"> Contract or potentially a panel arrangement
5. Onshore client services, data collection and verification	<ul style="list-style-type: none"> Government funded departmental counters and call centres 	<ul style="list-style-type: none"> Output-based, fixed prices (e.g. fee per interaction) Incentives for service standards Potentially user-pays to recoup costs 	<ul style="list-style-type: none"> Contract
6. Offshore client services, data collection and verification	<ul style="list-style-type: none"> Government funded counters, call centres User-pays SDP providers 	<ul style="list-style-type: none"> Output-based, fixed prices (e.g. fee per interaction) Incentives for service standards Likely uses-pays to recoup costs 	<ul style="list-style-type: none"> Contract

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Proposed bundle	Current Approach	Potential future pricing & performance	Potential agreement approach
7. Specialist data collection and verification	<ul style="list-style-type: none"> Internally delivered Partner support via input-based contract 	<ul style="list-style-type: none"> Input-based (e.g. fee per resource required) Incentives for service standards 	<ul style="list-style-type: none"> Contract
8. Subjective assessments for longer-term visas	<ul style="list-style-type: none"> Internally delivered function Human-performed 	<ul style="list-style-type: none"> Output-based, fixed prices (e.g. fee per assessment) Incentives for service standards Potentially user-pays to recoup costs 	<ul style="list-style-type: none"> Contract or potentially a panel arrangement

4.4. What commercialisation opportunities are there in the visa business?

The Department recognises that provision of visa services may present commercial opportunities for the market that unlock increased public benefit. The Department is seeking market input to understand whether to pursue these opportunities in a more structured process and to understand what would be required from the Department to unlock them. The Department would need to investigate the approach to quantifying and valuing any opportunities with the market. In particular, each opportunity would need to provide financial or other benefits to the public, and be consistent with the Commonwealth's obligations to applicants and its role in implementing Australia's sovereign responsibilities.

These opportunities may exist for providers:

- as part of delivering the visa services proposed in this paper
- in adjacent parts of the visa service delivery business or
- through the identification of new opportunities to facilitate trade, travel and migration for Australia's benefit.

Where potential commercialisation opportunities exist within a proposed bundle, the Department is interested in provider input on any changes to the proposed market model (eg. bundling approach, commercial models) that would be required to unlock them.

As an example of potential opportunities, market providers may be permitted to benefit in their other business lines from increased physical or digital 'footfall' generated by providing visa services. If appropriate safeguards can be provided, there may be limited scope for anonymised non-personal or meta-data about traveller or migration trends to be deployed to improve other services to consumers.

The Department is also interested in opportunities to provide valuable and relevant services to people connected with or enabled by their visa application. Visa applicants (both short-term travellers and longer-term migrants) require services from a range of sectors related to their time in Australia. These include for example setting up a bank account, taking up travel or other insurance, securing accommodation (eg. hotels for travellers and housing for migrants), purchasing from high-profile brands, securing utilities and other services such as recreation activities. Each of these activities and others could potentially be improved for applicants and the providers by interacting with the visa business and the application process, including for example by:

- allowing migrants better access to financial products, by using evidence from their visa application that proves that a reputable authority has verified their history as a small business owner overseas
- assisting visa holders and businesses to resolve and finalise their engagement before a visa expires and the person leaves Australia
- providing travellers with access to relevant products and service offers, potentially as part of their visa application process or to potential applicants informed by anonymised trend data.

Input is welcomed on these and other appropriate commercialisation opportunities and how you could provide adequate safeguards and share value with the Commonwealth.

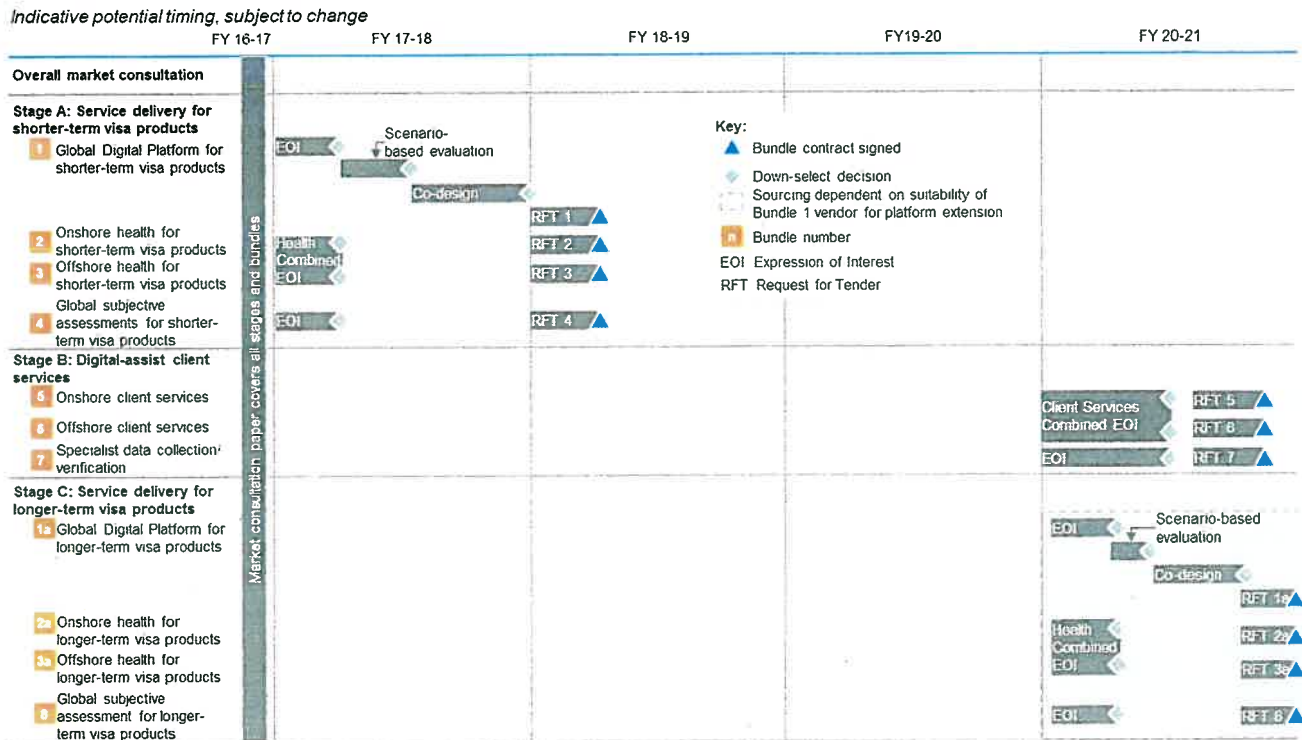
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4.5. How should we approach and engage potential market partners?

The Department's engagement with the market would aim to be early, frequent and collaborative. The Department proposes to approach the market in three stages over five years per the timeline below at Figure 7. This collaborative design and competitive sourcing process will likely start with the design and build of the temporary visa business followed by client services for all visas; then the business for longer-term visas.

Figure 7: Indicative timeline of potential approaches to market



The process proposed for Stage A may be conducted as follows:

- Market Consultation** – The Department is inviting parties to provide submissions on the Department's proposed service delivery approach. This is a non-competitive process and aims to provide the Department with further information for consideration in the development of an Expression of Interest (EOI).
- EOI** – An open approach to market, via the Government's Procurement Information System 'AusTender', may seek tenders from the market on the broad service requirements for Visa Reform. At this stage any EOIs would be a competitive process and we expect potential suppliers would be shortlisted, following evaluation of the submissions. These shortlisted suppliers would be eligible to progress to later stages. Those not shortlisted could be precluded from further evaluation.
 - Indicative pricing: as part of the EOI process**, the Department will likely ask providers for indicative, non-binding, non-evaluative pricing and ask providers to work with the Department to refine market-quality costings for the purpose of the Department quantifying required funding envelopes for Government.
- Scenario evaluation for Bundle 1 only** – The Department proposes to conduct scenario evaluation with vendors or consortia who have been down-selected as potential providers for the proposed Bundle 1 in the EOI stage. They would likely be briefed by the Department on a range of business and technology scenarios and asked to present responses that would be evaluated through a series of workshops. By the end of 2017, the Department would likely select a small number of vendors or consortia to participate in a competitive co-design process for the proposed Bundle 1. Those not selected could be omitted from further evaluation and consideration.

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4. **Competitive co-design of the future Visa Business focussed on Bundle 1:** The Department proposes to spend approximately six months in 2018 co-designing the future business and technology solution. This would involve competitive teams from each short-listed Bundle 1 vendor or consortia supported by departmental subject matter and technology experts. The Department proposes these teams would reimagine the business model and co-create high-level, end-to-end designs for the new platform and business. Vendors or consortia short-listed for the proposed Bundle 1 may potentially be considered in part on the quality of the design and their ability to work effectively with the Department.
 - The Department proposes limited non-evaluative participation of vendors or consortia for proposed Bundles 2-4 (short-listed as part of the EOI stage) to inform the co-design process. Participation is proposed to be approximately several full-day or equivalent workshops.
5. **Request for Tender (RFT)** – Government approval is required prior to release of the RFT. Subject to Government approval, the Department is considering issuing four RFTs, one for each of the four proposed Stage A bundles in 2018, and evaluating and negotiating final terms with selected partner(s). This may be a prequalified tender process, as per the Commonwealth Procurement Rules, where shortlisted potential suppliers who responded to the EOI (and were shortlisted from the scenario modelling and co-design stages for the proposed Bundle 1), would be invited to submit responses to the RFT. The RFT would likely outline the Department's service requirements. The successful tenderer(s) from any RFT process would be awarded contract(s), unless it is determined that it is not in the public interest.
6. **Contracting:** Appropriate approvals would be sought before any final contracts are signed.

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4.6. What is the impact of potential provider requirements?

To ensure fairness and that the Commonwealth receives value for money, there will be non-negotiable requirements for participating in any approach to market and/or partnering with the Department to deliver visa services. All approaches to the market (if any) that relate to the future visa business will be conducted in accordance with the requirements of the *Public Governance, Performance and Accountability Act 2013* (Cth) (which incorporates the Commonwealth Procurement Rules).

The contracts with market partners will need to meet typical Commonwealth and departmental-specific requirements including (but not limited to):

- Department specific requirements:
 - The *Migration Act 1958* (Cth) and *Migration Regulations 1994*
 - *Freedom of Information Act 1982* (Cth);
 - the *Australian Border Force Act 2015* (Cth), including its extension to "Immigration and Border Protection workers"
- Other general procurement requirements
- Requirements to seek the Department's approval before making any media release and marketing reference regarding visa service delivery.

Any solutions for the visa business will need to be compliant with relevant Commonwealth laws and policies, including (but not limited to):

- the collection, use, disclosure and storage of personal information, including the *Privacy Act 1988* (Cth), Australian Privacy Principles and others such as the *Archives Act 1983* (Cth)
- appropriate legislative, government policy and IT security requirements
- obtaining and maintaining appropriate accreditation as required.

Examples of legislative, government policy and IT security requirements include (but are not limited to) compliance with:

- The Australian Government's Protective Security Policy Framework (PSPF)
- Applicable Australian Government Information Security Manual (ISM) security controls
- The Department's Cyber Security Statement and IT Security Requirements
- Whole-of-government cyber security requirements and obligations.

The Department is seeking market input on the impact of these requirements on the ability of providers to participate in any approach to market.

In considering potential additional delivery requirements (including in any approach to market) beyond the mandatory legal requirements, the Department is interested in how potential providers could locate work effort, assets and data. This should be considered in light of the legal requirements above and the likely need to securely interface with departmental systems located primarily in Canberra. Details of the preferred approach may include (among other things) preferences or requirements for delivery location, the location of assets, the storage of data or systems, or the impact of clearance requirements on personnel.

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5. Response Terms

1. The point of contact for all matters concerning this market consultation paper is the Project Officer, whose details are as follows (TBC):
 - [insert name]
 - [insert title and Branch/Division]
 - Email: [insert address]
 - Telephone: [insert phone number]
2. This Paper is not an offer or a request for offers and must not be relied upon as such. It is an invitation to respondents to provide feedback. The Department intends that feedback received in response to this Paper will assist the Department to further define and refine its requirements and inform one or more competitive procurement processes (if any). Participation in this market consultation process is subject to the conditions set out in this Paper. Respondents are deemed to accept these conditions.
3. Responding to this Paper is non-competitive and will not advantage or disadvantage respondents in any future procurement process(es) for visa service delivery (however it gives Respondents the opportunity to potentially influence the development of the Department's future visa business).
4. The Department may, in its absolute discretion, request follow-up discussions with any or all respondents. Any request or invitation by the Department to engage with a respondent must not be, nor be deemed to be, a representation by the Department that it will invite that Respondent to participate in any approach to the market for any part of the visa business.
5. While the Department welcomes responses and may draw on them, the Department is not obliged to consider, use or incorporate any feedback provided.
6. Notwithstanding anything else contained in this Paper or limiting its rights at law or otherwise, the Department may:
 - 6.1. vary this Paper, or the structure, requirements or processes referred to in this Paper at any time, with or without public consultation
 - 6.2. vary the timing(s) referred to in this Paper
 - 6.3. cease, suspend or vary the consultation and / or procurement processes envisaged in this Paper
 - 6.4. seek additional information and / or clarification from any respondent or third party at any time
 - 6.5. provide additional information to respondents (including potential respondents) at any time
 - 6.6. add to, alter, delete or exclude any bundle from any future procurement process
 - 6.7. conduct an approach to market for any or all of the visa business, or
 - 6.8. elect not to proceed with an approach to market for any or all of the visa business.
7. The Department will not be liable or in any way responsible for any loss, cost, expense, claim or damage incurred by a respondent because the Department:
 - 7.1. exercises or fails to exercise any of the Department's rights under this Paper, or
 - 7.2. fails to inform a respondent of its exercise or non-exercise of those rights.
8. Further the Department will not be liable or in any way responsible for any loss, cost, expense, claim or damage incurred by a respondent in responding to the market consultation paper.
9. All submitted responses become the property of the Commonwealth as represented by the Department upon lodgement. Responses to this market paper will not be directly shared with other parties. General information that does not identify a respondent or their intellectual property may inform the Department's requirements and associated approaches to market and/ or any procurement.
10. All intellectual property rights in this Paper and any attached or related Commonwealth material remain the property of the Commonwealth as represented by the Department. Each respondent is permitted to use this Paper and the material contained in it (in whatever form) solely for the purpose of preparing and lodging a response, unless otherwise agreed in writing by the Department.
11. If the respondent does not agree to the licence terms in clause 9, they must identify their licence terms in their response.

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Attachment A: Indicative view of select pending procurements and approaches to market

Attachment A - Figure 1: Indicative view of select pending procurements and approaches to market in next 12-18 months



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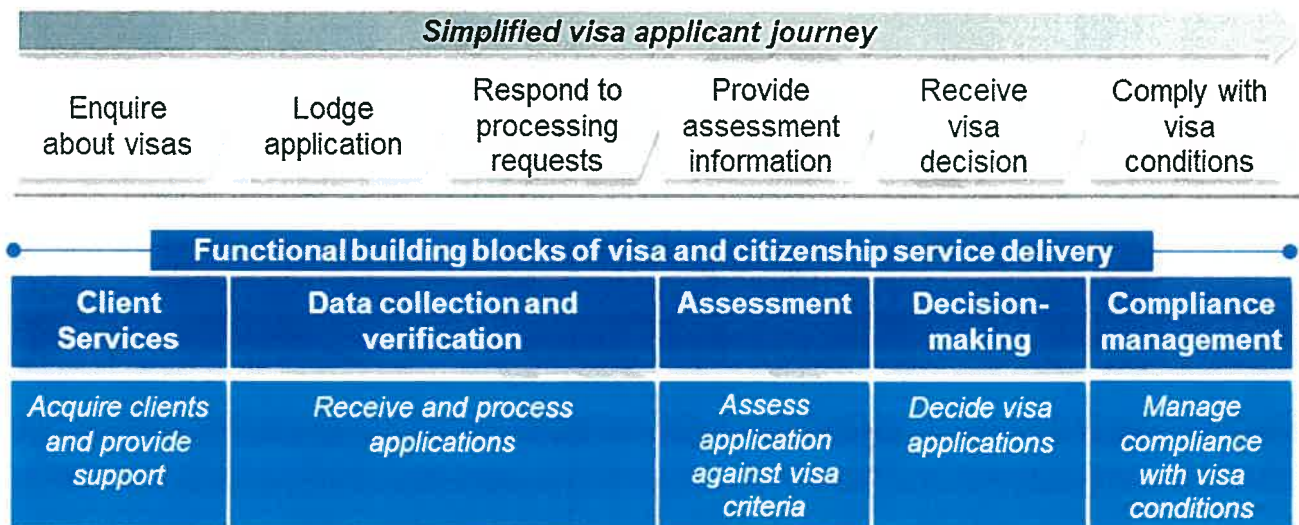
Attachment B: Current visa application process

The essential components of today's visa business provide important context to the Department's change proposition. Australia's visa and citizenship business delivers services for non-citizens (applicants) to enquire about, apply for, and have a decision made on their application for one of Australia's visas to enter and/or remain in Australia. The Department also provides citizenship services. As with most countries, Australia requires most visa applicants to pay a tax to apply for and receive a decision on a visa. This Visa Application Charge (VAC) varies dependent on the visa and the location of the applicant. A high-level outline of current processes follows.

Building Blocks of the Visa Business

The key services and processes undertaken at each stage of the visa application process, from the Department's perspective, are outlined below.

Attachment B - Figure 1: Applicant journey and functional building blocks of visa service delivery



Acquiring clients and providing support

The visa business must offer services that help convince people to choose Australia over other destinations for their business, holiday, studies or future home. Once a person has decided to come to Australia, they will often have questions and require support to understand which visa they need and how to apply. These enquiries and support are provided increasingly through online self-service channels, as well as through private migration agents, but a substantial portion of work is still done over the phone and via email at service centres and in person in our offices or via each of these channels through third party providers. The Department also communicates with visa applicants about their application through a range of channels, including phone and email.

Receiving and processing applications

Visa applicants can currently lodge their visa application in a range of ways, depending on the visa type and location of the applicant. Existing lodgement methods include online lodgement and paper based application forms, submitted to a visa office or at a visa application centre run by one of the Department's service delivery partners. The applicant is required to pay the Visa Application Charge and fulfil any other validity requirements to lodge a valid visa application. The applicant may be required to provide biometrics.

Assessing applications against visa criteria

There is a range of high volume, low complexity work involved in progressing valid visa applications to a decision. For example, information from paper application forms is manually entered into systems.

Generally cases are allocated to the appropriate team within the Department and then to an individual visa processing officer for assessment.

Depending on the circumstances and the complexity of the visa assessment, the visa processing officer may need to request further information from the visa applicant and issue requests for the applicant to fulfil certain

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criteria, such as undertaking health and character checks. The visa processing officer may also provide the applicant with the opportunity to respond to certain types of adverse information that could result in the refusal of the visa application.

In some circumstances, especially for more complex permanent entry visas, there may be a need to conduct interviews or in-field investigations to collect and/or verify information. This process enables the management of certain immigration risks by testing the claims made in the application.

Once the required information has been collected and recorded, the visa processing officer determines whether the criteria for grant of the visa have been met. The criteria for grant of the visa varies between visa classes.

Some assessments can be described as objective, for example, certain visas have eligibility requirements such as a minimum age, which an applicant either meets or does not meet. Other, 'subjective' criteria can require substantially more judgement to determine, for example, whether an applicant genuinely intends to travel to Australia for the purpose they have stated in their application.

Generally, staff make assessments with assistance from information contained in departmental systems. For high-volume visa classes, such as Visitor visas, the resources involved in making all these assessments for millions of applications are substantial, despite the criteria being comparatively simple. More complex, longer-term or migration visas are lower-volume, but require more detailed assessment.

There are also criteria that require specialist knowledge, for example, applicants are often required to attend medical professionals to be assessed against the health criteria of some visas, or provide a police clearance. Visa processing officers may be required to refer applications to experts for advice on issues such as document verification.

Communications with applicants is undertaken in accordance with detailed legal requirements. The visa decision may also be the subject of external review and the relevant materials relating to the application need to be properly available to support that process.

Decide visa applications

Once the relevant criteria have been assessed, the visa processing officer makes a decision to grant or refuse the visa and notifies the applicant of the outcome. If a person is granted a visa, the visa holder is then able to travel to Australia.

Each visa has a specific validity period before the holder must leave Australia or apply for a new visa. Each visa may also have conditions that restrict or require certain behaviours, for example studying at a particular institution or refraining from working.

Manage compliance with visa conditions

The visa business also involves 'downstream' functions including monitoring visa holders' compliance with the conditions of the visa and taking enforcement or status resolution action when visa holders breach visa conditions or overstay their validity period. There are also opportunities for visa holders to self-resolve to avoid or correct any breaches of their visa conditions.

Systems

The Department developed its current suite of IT systems for the visa business over almost thirty years. They reflect the complexity of the visa framework with dozens of systems and sources of data regularly used in visa processing.

The two core visa processing platforms are:

- the Immigration Records Information System (IRIS), that was deployed in 1989 as DIBP's overseas visa processing system, and is still primarily used for the processing of paper visa applications lodged overseas
- the Immigration and Citizenship Unified Environment (ICUE) which is gradually replacing IRIS. This platform encompasses a number of technologies and systems and supports online lodgement of applications through the department's online system ImmiAccount.

Both platforms are supported by other departmental enterprise capabilities such as enterprise threat, identity, biometric, financial, and record keeping systems in order to support the end-to-end process of lodging and assessing a visa or citizenship application.

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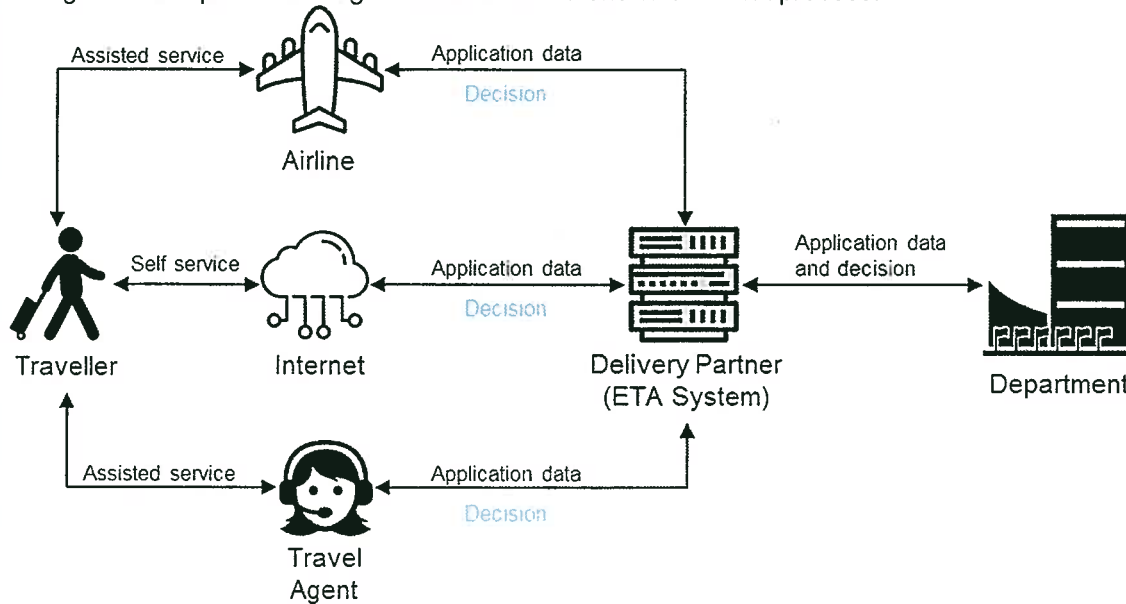
Case Studies

Application for an Electronic Travel Authority (ETA)

Holders of a passport from one of the ETA eligible countries can apply for the ETA themselves online or use the services of over 300,000 travel agents worldwide or over 75 airlines to apply on their behalf.

The ETA system was developed and is maintained by an external service provided contracted by the Department.

The figure below provides a high-level view of the end to end ETA process.



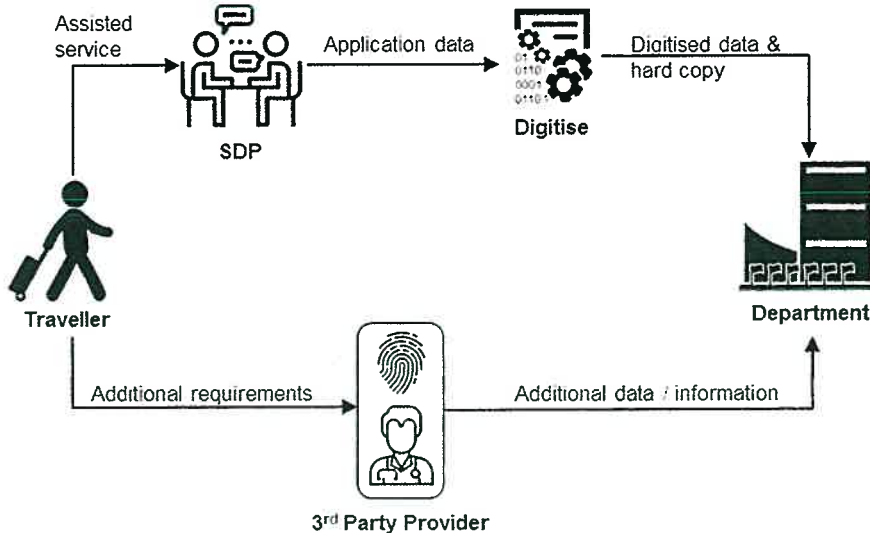
At application, the details from the prospective traveller's passport and other information is entered into systems. The ETA system interacts with the Department's systems to check the applicant's details. Following these checks, the service provider is advised of the outcome of the application. Most ETAs are issued immediately by computer links between the Department, travel agents, airlines and the specialist service providers. If an ETA is granted, it is linked electronically to the prospective traveller's passport. These decisions are based on particular policies and business rules set by the Department in line with legal requirements.

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Application for a Visitor Visa

Currently, prospective visitors, who are coming to Australia as tourists, to see family or for business, apply online or using a paper form for one of several available visa products. Any required supporting documentation is attached to the application. Applications are often submitted with the support of a Service Delivery Partner.

The figure below provides a high-level view of the visa application process where a Service Delivery Partner provides client services.



If the form is lodged through a Service Delivery Partner, the application will be checked for completeness and fees and charges will be collected. Biometrics are also collected from the applicant, where required.

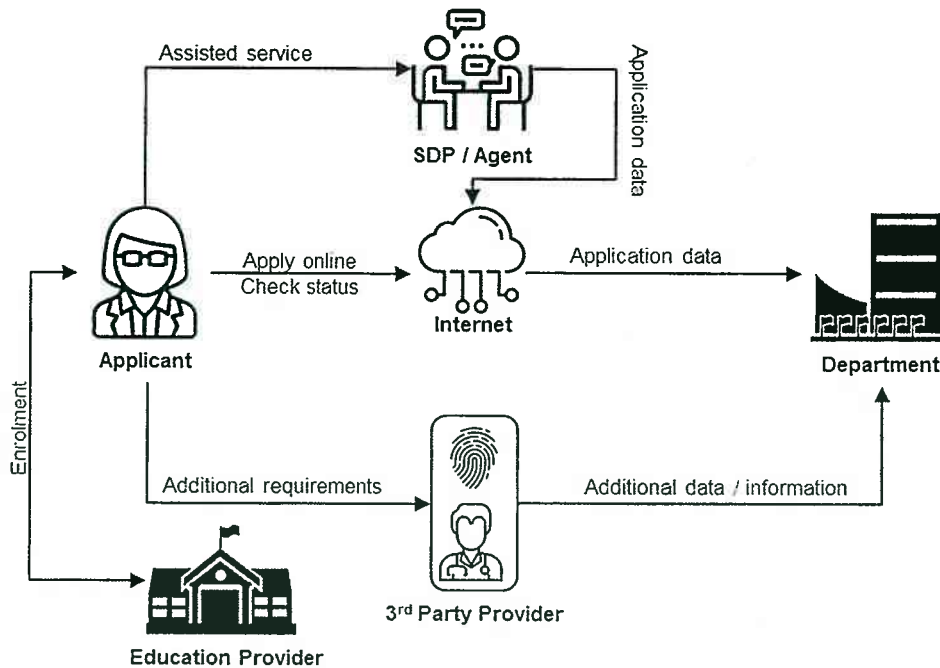
For each application, the Service Delivery Partner will enter the necessary information into their system, then extract it and flat file it for submission to the Department. The Department receives the flat file, associated paper applications and a receipt for the charges collected. The Department uploads the flat files into its systems, creating an electronic visa application record for each applicant. The Department assess the application and records the outcome in its system. The applicant is advised of the visa decision.

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Application for a Student visa

Prospective international students apply online.

The figure below provides a high-level view of the end-to-end international student application process.



Generally, prospective international students must be enrolled in registered courses and hold a Confirmation of Enrolment (CoE) for each course. Those that are offshore must include the CoE in their application, while those already onshore can apply with just a letter of offer provided their CoE is submitted prior to the application being decided.

A number of factors determine the level of supporting documentation the student needs to provide with the application and whether they are required to undergo a health assessment or provide biometrics.

The visa applicant is advised the outcome of their application. If granted, the visa is attached electronically to their passport.

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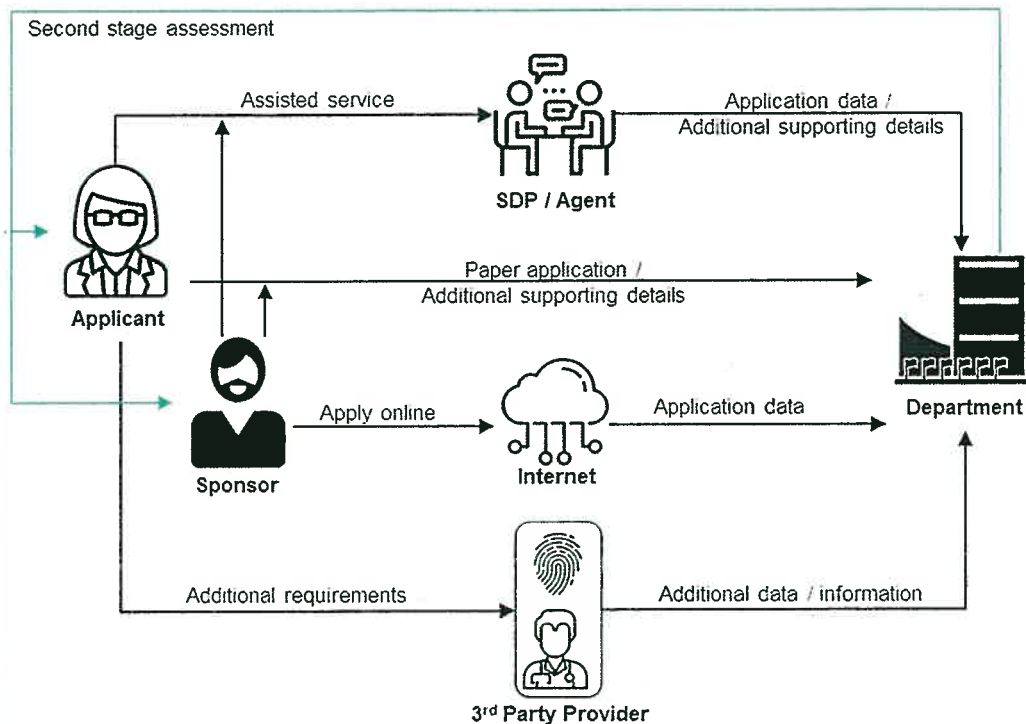
Application for a Partner visa

Partner Visa

Currently, Partner visa applications are processed and assessed under a two-stage process.

Initially, the applicant completes and submits a paper or online application and supporting evidence to the Department either directly or using the services of an agent. The applicant's sponsor then completes and submits their application and supporting evidence online or using a paper form provided directly to the Department or through an agent.

The figure below provides a high-level view of the process undertaken for the partner visa applications.



Applicants are required to undergo a health assessment and may be required to provide their biometrics.

A range of character, health and security checks are undertaken and an assessment is made of the genuineness of the relationship. The assessment of genuineness may rely solely on documentary evidence or could include undertaking an interview.

From application to the final decision on a permanent visa can take a number of years and departmental staff access the case from time to time as certain milestones are reached or information is received. Generally the permanent partner visa is granted two years after an applicant receives their temporary visa.



Australian Government
Department of Immigration
and Border Protection

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MINUTE

To: Acting FAS Digital Transformation and Channels Division

Date: 6 June 2017

KEY INFORMATION AND APPROVALS REQUIRED FOR THE CLIENT ENQUIRY SERVICES REQUEST FOR TENDER

Timing

Approval of this Minute is required by 10.00am on 7 June 2017 to support an approach to market by 9 June 2017.

Purpose

To:

1. Advise you of the key dates and activities associated with the Client Enquiry Services Request for Tender (RFT) for release to market and evaluation
2. Seek your approval for the RFT to be released to market ([Attachment A](#))
3. Seek your approval of the proposed membership and responsibilities of the RFT Evaluation Team
4. Seek your approval of the proposed membership and responsibilities of the RFT Steering Committee
5. Seek your approval of the Procurement Plan ([Attachment B](#))
6. Seek your approval of the Evaluation and Probity Plan ([Attachment C](#)).

Issues

Key Dates and Activities

7. The following dates identify the sequence of required activities leading up to Service Provider contract signature:

Date	Activity
Tuesday 6 June	Email letter to down-selected Respondents regarding RFT release, Deed of Non-Disclosure, Industry Day registration.
Wednesday 7 June	Message from AS CMB regarding imminent release of RFT
Wednesday 7 June	RFT sent to Procurement, Panels and Reporting - Assurance Review
Thursday 8 June	AS CSMB - Branch Probity Email and Advising of Industry Briefing

Date	Activity
Thursday 8 June	RFT uploaded to AusTender by Procurement, Panels and Reporting Team for release to market (12:01 am)
Friday 9 June	RFT released to market (12:01 am)
Friday 9 June	CPSU advised of RFT release to market (email from AS CSMB)
Thursday 15 June	Industry Briefing
Monday 17 July	RFT Respondents Closure (2.00pm)
Wednesday 19 July	RFT Evaluation Commences
Thursday 24 August	RFT Evaluation Report approved by RFT Steering Committee
Monday 28 August	Obtain Deputy Secretary agreement and Delegate approval
Tuesday 29 August	Notify preferred RFT Respondent (Service Provider)
Wednesday 30 August	Notify non - preferred RFT Respondents
Tuesday 5 September	Commence contract negotiations
Friday 10 November	Contract signed

Final Version of the RFT

8. The RFT is planned to be released to market via AusTender on Friday 9 June (at 12:01am).
9. A final version of the RFT is at **Attachment A**.

Proposed RFT Evaluation Team Responsibilities and Membership

10. The RFT Evaluation Team will be responsible for evaluating the submitted RFT responses, including:
 - a. perform a detailed examination and evaluation of the submitted Responses against the Evaluation Criteria
 - b. evaluate and make recommendations on any alternative proposals or options which are part of a Response
 - c. ensure that quality assurance and probity is maintained
 - d. prepare an Evaluation Report for the consideration of the RFT Steering Committee.
11. The Evaluation Team is responsible for ensuring that the RFT process is open and transparent and that all actions by the Department are documented, defensible and substantiated in accordance with legislation and policy.
12. The proposed RFT Evaluation Team and its responsibilities are as follows:

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Chair	All roles of Member, plus: <ul style="list-style-type: none"> • Management of Evaluation Team in accordance with Probity and Evaluation Plan • Responsible for ensuring the development of the RFT Evaluation Report • All communications with Steering Committee. 	s22(1)(a)(ii) - Director, Service Centre Support

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Deputy Chair	All roles of a member, plus: <ul style="list-style-type: none"> Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required. 	s22(1)(a)(ii) - Manager, Sydney Service Centre
Member	Individually scoring and assessing risk of all responses against all criteria, while committee members bring different focus areas, each member reviews each response entirely to allow responses to be assessed in their totality. Collectively developing Short Lists.	s22(1)(a)(ii) – Sydney Service Centre Team Leader s22(1)(a)(ii) – Solution Architecture <u>TBA</u> (Two resources to evaluate financial aspects of responses – currently being sourced)
Specialist Advisors to be called upon when required by the Evaluation Team		
RFT Process Support	Support and advice on the RFT process as required by the Evaluation Team.	s22(1)(a)(ii) – Sourcing and Vendor Management
Legal and Probity	Support and advice on legal issues raised by any responses, and the probity of the evaluation process.	McGrathNicol – Corporate and Business Advisory Firm
Contract Management	Support and advice on potential contractual arrangements as required by the Evaluation Team.	s22(1)(a)(ii) – Director SDP Services Team
Systems Support	Support and advice on service centres' systems as required by the Evaluation Team.	s22(1)(a)(ii) – Director Digital Client Enquiry Support
Architecture	Support and advice on the technology and architectural risks of any response as required by the Evaluation Team.	s22(1)(a)(ii) – Director Technology Architecture, Strategy Architecture and Innovation Branch (to be confirmed)
Business Requirements	Support and advice on Departmental business requirements as required by the Evaluation Team	s22(1)(a)(ii) – Senior Business Analyst, Service Centre Support s22(1)(a)(ii) – Assistant Director, Service Centre Support s22(1)(a)(ii) CMO Ottawa s22(1)(a)(ii) CMO London

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Dependent Projects	Support and advice on dependent projects as required by the Evaluation Team	s22(1)(a)(ii), Director, Web Services and Correspondence s22(1)(a)(ii) Director, Client Service Transformation s22(1)(a)(ii) Director, Visa & Citizenship Helpdesks s22(1)(a)(ii) Superintendent, National Border Programme
Financial Capacity & Quality	Provide advice on the financial viability of selected respondents	KPMG
RFT Evaluation Team and RFT Steering Committee Administrative Support		
Administrative Support	Administrative support including logistically arrangements, record management, coordination of questions back to Respondents, filing of Confidentiality and Probity Declarations.	s22(1)(a)(ii) s22(1)(a)(ii) s22(1)(a)(ii) – All of Service Centre Support Section

Proposed RFT Steering Committee Responsibilities and Membership

13. The RFT Steering Committee will provide oversight of the RFT process, including:
- reviewing the draft Evaluation Report
 - providing responses to the Evaluation Team when necessary, including providing its comments and amendments regarding the draft Evaluation Report
 - making a recommendation to the Delegate regarding proposed next steps to be taken in the procurement process.
14. The proposed RFT Steering Committee membership and responsibilities are as follows:

Role	Role Requirements	Proposed Resource/Membership
Chair	Ensure the RFT process is defensible. Identify, arrange and monitor resources to facilitate the Evaluation Process. Provide regular progress reports to the Delegate and summary reports as required. Ensure conflict of interest and probity issues are identified and addressed.	Tara Cavanagh – A/g First Assistant Secretary, Digital Transformation and Channels Division
Deputy Chair	Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required.	Renelle Forster - Assistant Secretary, Channel Management Branch

Is this a high risk / high value procurement?

Members	<p>Review the draft Evaluation Report and provide responses to the Evaluation Team when necessary providing comments and amendments regarding the draft Evaluation Report.</p> <p>s22(1)(a)(ii)</p> <p><i>Discuss with - need to get meetings into calendar now</i></p>	<p>s22(1)(a)(ii) - A/g Assistant Secretary, Visa Reform</p> <p>Anne Leo - AS, Workforce Management</p> <p>Duane Stokes - AS, Procurement & Panel Management</p> <p>OR</p> <p>Ian Laverock - AS, Procurement & Contracts</p> <p>s22(1)(a)(ii) - a/g AS, Strategy Architecture & Innovation</p> <p>Judith O'Neill - AS, Temporary Visa Programme</p> <p>Jim Williams - AC, Border Management</p> <p>Steven Groves - Chief Finance Officer</p> <p>Lisa-Ann Howgego - AS, Audit & Assurance</p> <p>Alicia Wright - AS, Commercial & Employment Law</p>
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Final Version of the Procurement Plan and Evaluation and Probity Plan

15. A final version of the Procurement Plan, is at **Attachment B**.
16. The Evaluation and Probity Plan is at **Attachment C**. The Plan will require the signatures of RFT Evaluation Team and RFT Steering Committee members before (Wednesday 19 July).

Consultation

17. The Secretary and Commissioner have been briefed on this approach.
18. Relevant staff within your work areas have been consulted as needed.
19. Close consultation has taken place with the Visa Reform Taskforce to ensure alignment with the Visa Reform Programme and consistency in benefits modelling.

20. Consultation with Major Capability Division (MCD) included engagement with the Sourcing and Vendor Management Branch to ascertain the correct market approach. Consultation has also been undertaken with MCD's Strategic Architecture and Innovations Branch to obtain an architectural and security review of the RFT.
21. A detailed Stakeholder Engagement and Communication Plan has been developed, which clearly articulates the approach to engage key stakeholder groups such as the Sydney Service Centre (SSC), overseas Service Centres and the CPSU and has been developed in consultation with People Division, who advised that the plan is consistent with Enterprise Agreement requirements for staff and representative consultation. As far as we know there are no staff in the SSC, who attract the ACBPS enterprise agreement conditions.
22. SSC, Americas Service Centre and Europe Service Centre' staff consultation has been occurring since October 2016.
23. The Department of Foreign Affairs and Trade (DFAT) has been advised.

Recommendation

It is recommended that you:

- **note** key dates and activities for the RFT process.

Noted / Please Discuss

- **approve** the final version of the RFT to be placed on AusTender (Attachment A).

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Evaluation Team.

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Steering Committee.

Approved / Not Approved / Please Discuss

- **approve** the approve the final version of the Procurement Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

- **approve** the final version of the Evaluation and Probity Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

s22(1)(a)(ii)

Director Service Centre Support Section

6 June 2017

s22(1)(a)(ii)

Tara Cavanagh

A/g FAS Digital Transformation and Channels

7 June 2017

Contact Officer:

s22(1)(a)(ii)

Director Service Centre Support Section

Phone:

s22(1)(a)(ii)

Attachments

- A. Client Enquiry Services RFT
- B. Procurement Plan for Client Enquiry Services
- C. Evaluation and Probity Plan for Client Enquiry Services



Australian Government

Department of Immigration and Border Protection

ABN: 33 380 054 835

REQUEST FOR TENDER (RFT)

for THE PROVISION OF CLIENT ENQUIRY SERVICES

DIBP RFT 11/16

The Department of Immigration and Border Protection (**DIBP**) invites interested shortlisted parties to submit Tenders in accordance with this RFT for the products, goods and/or services described in the Statement of Requirement at **Attachment B**.

This RFT consists of:

- a. **PART 1** - RFT Details, which set out the specific details that apply to this RFT; and
- b. **PART 2** - Terms and Conditions that apply to this RFT; and
- c. **Attachment A** (Glossary);
- d. **Attachment B** (Statement of Requirement);
- e. **Attachment C** (Service Levels);
- f. **Attachment D** (Draft Agreement);
- g. **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
- h. **Attachment F** (Tenderer Response Forms)

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PART 1 - RFT DETAILS

RFT Detail	Details
RFT Number	RFT 11/16
Closing Time	14:00 pm on 20 July 2017 (local time in Canberra, Australian Capital Territory).
Contact Officer	Name: The CES Contact Officer Email: ces.procurement@border.gov.au
Description of the Services	<p>The Services being sought are Client Enquiry Services meeting the requirements in the Statement of Requirements.</p> <p>The Service Provider will be required to service all enquiries by clients that the Department has classified as Tier 1 or Tier 2 enquiries</p> <p>Tier 1 enquiries involve the provision of information that is publicly available on the Website, Departmental cleared Scripts and Frequently Asked Questions (FAQs). This includes:</p> <ul style="list-style-type: none"> a. Information on Visa categories, Citizenship, Travel or Trade (including bringing goods in and out of Australia) b. Information on relevant Fees and Charges and Service Standards; and c. Information and guidelines on the process of a Visa, Citizenship Application, Trade and Travel related activities. <p>Tier 2 enquiries involve the provision of information that requires access to the Department's Line of Business systems in order to resolve the enquiry. This includes:</p> <ul style="list-style-type: none"> a. Application Status/Progress; b. Update Test/Ceremony Appointment Enquiry or Reschedule – Citizenship; c. Check client's visa details/conditions/expiry; d. Eligibility calculations – Citizenship; e. Update Contact Details; f. Online systems errors/ change of password; and g. Documents Required/Received confirmation. <p>Further details of the Services are set out in Attachment B (Statement of Requirement).</p>

RFT Detail	Details
Mandatory Requirements	<p><u>Conditions for Participation:</u></p> <ol style="list-style-type: none"> 1. The Tenderer must submit the Tender by the Closing Time; 2. The Tenderer must be financially and commercially viable to perform the Services (please see Form 7 (Details of financial viability and commercial viability of Tenderer) in Attachment F (Tenderer Response Forms)); 3. The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim; 4. The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth); and 5. The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the <i>Charter of United Nations (Dealing with Assets) Regulations 2008</i> (Cth). <p><u>Minimum Content and Format Requirements:</u></p> <ol style="list-style-type: none"> 1. The Tenderer must Tender for all the Services in Attachment B (Statement of Requirement). No Tenders for only part of the Services set out in Attachment B (Statement of Requirement) will be allowed; 2. The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in Form 2 of Attachment F (Tenderer Response Forms); 3. The Tenderer must comply with AusTender lodgement requirements and procedures; and 4. Measurements in the Tender must be expressed in Australian legal units of measurement.
Intended Timetable for the RFT	<p>Issue RFT: 9 June 2017</p> <p>Industry Briefing: 20 June 2017</p> <p>Closing Time: 14:00 pm 20 July 2017</p> <p>Evaluation period: 24 July 2017 – 25 August 2017</p> <p>Contract with successful tenderer finalised: 17 November 2017</p> <p>This timetable is indicative only (see Terms and Conditions clause Error! Reference source not found.).</p>

RFT Detail	Details
Intended outcome of the RFT Process	One successful Tenderer for provision of the Services (see Terms and Conditions clause 23 and Attachment D (Draft Contract)).
Proposed Contract Period	Three (3) years , with further options for DIBP to extend the Contract for any number of periods not exceeding a further four (4) years in aggregate .
Tender Validity Period	Twelve (12) months after the Closing Time (see Terms and Conditions clause 6).
Industry Briefings	<p>Details of the Industry Briefing are:</p> <p>Date: 20 June 2017</p> <p>Location: 5 Chan St, Belconnen, ACT, 2603</p> <p>Time: 14:30 pm to 16:30 pm</p> <p>Attendance at briefing compulsory: No</p> <p>Registration for briefing compulsory: Yes</p> <p>Closing time for registration for briefing: 14:00 pm 20 June 2017</p> <p>(See Terms and Conditions clause 8).</p> <p>Note to Tenderers: whilst attendance at the Industry Brief is not compulsory, you are highly encouraged to attend.</p>
Site Inspection	There will be no Site Inspection of DIBP premises for this RFT Process.
Evaluation Process of Tenders and Evaluation Criteria	As set out in Part 3 .

RFT Detail	Details
Participation of other Commonwealth Agencies in this RFT Process	<p><input checked="" type="checkbox"/> DIBP is not aware of any other requirement by another Commonwealth Agency for the Services, but wishes to facilitate procurement by any other Commonwealth department or Agency in the future using the mechanisms in this RFT and Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p> <p><input type="checkbox"/> DIBP is aware of one or more other Commonwealth Agencies that, at the time of issuing this RFT, have indicated their interest in procuring the Services from successful Tenderer in the future but, at the time of issuing this RFT, DIBP is not aware of the details of the requirements of those Commonwealth Agencies. If other Commonwealth Agencies decide to procure the Services from the successful Tenderer (if any) in the future, DIBP intends to facilitate that procurement using the mechanisms in this RFT and the Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p> <p><input type="checkbox"/> DIBP is aware of one or more Commonwealth Agencies that, at the time of issuing this RFT, intend to procure the Services from the successful Tenderer as part of this RFT Process. In addition, DIBP wishes to facilitate procurement of the Services by other Commonwealth Agencies in the future using the mechanisms in this RFT and Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p>
Does the Building Code and Guidelines apply?	<p><input checked="" type="checkbox"/> No</p>
Security Requirements	<p>Relevant Personnel of the successful Tenderer and its Subcontractors, where applicable, are required to be employment suitability and security cleared.</p> <p>Terms and Conditions Clause 38 sets out this requirement in further detail.</p>

PART 2 - TERMS AND CONDITIONS

1. The RFT

- 1.1. This RFT comprises:
- (a) **Part 1** - RFT Details, which set out the specific details that apply to this RFT;
 - (b) **Part 2** - Terms and Conditions that apply to this RFT;
 - (c) **Part 3** - Evaluation of Tenders;
 - (d) **Attachment A** (Glossary);
 - (e) **Attachment B** (Statement of Requirement);
 - (f) **Attachment C** (Service Levels);
 - (g) **Attachment D** (Draft Contract); and
 - (h) **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
 - (i) **Attachment F** (Tenderer Response Forms).
- 1.2. Tenderers' attention is also drawn to the:
- (a) Conditions for Participation; and
 - (b) Minimum Content and Format Requirements,
- as set out in **Part 1**.
- 1.3. **Attachment A** (Glossary) defines the terms used in this RFT. Capitalised terms have the meaning given to them in **Attachment A** (Glossary). Where capitalised terms appear throughout this RFT and are not specifically defined in **Attachment A** (Glossary), those terms have the meaning provided for them in this RFT in which they appear.
- 1.4. Where there is an inconsistency between any Part or Attachment of this RFT and any document referred to in or incorporated into this RFT, the order of priority for the purposes of construction is:
- (a) **Part 1** - RFT Details; then
 - (b) **Part 2** - Terms and Conditions; then
 - (c) **Part 3** - Evaluation of Tenders; then
 - (d) **Attachment A** (Glossary); then
 - (e) **Attachment D** (Draft Contract); then
 - (f) **Attachment B** (Statement of Requirement); then
 - (g) **Attachment C** (Service Levels); then
 - (h) **Attachment F** (Tenderer Response Forms); and then
 - (i) any other document forming part of this RFT.

2. Interpretation

- 2.1. In this RFT, except where the contrary intention is expressed:
- (a) words importing a gender include any other gender;
 - (b) words in the singular number include the plural and words in the plural number include the singular;
 - (c) section headings are inserted for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
 - (d) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority, agency or other entity;
 - (e) another grammatical form of a defined word or expression has a corresponding meaning;
 - (f) a reference to a clause, paragraph, part, attachment, schedule or annexure is to a clause, paragraph, part, attachment, schedule or annexure to this RFT and a reference to this RFT includes all attachments, schedules or annexures to it;
 - (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (h) the meaning of general words is not limited by specific examples introduced by including, 'for example' or similar expressions and the word 'include' is not a word of limitation;
 - (i) a reference to monetary units is to units of Australian Currency;
 - (j) a reference to time for delivery is to Australian Eastern Standard Time or Australian Eastern Daylight Saving Time as appropriate;
 - (k) a reference to a matter being to the knowledge of a person means that the matter is the best of the knowledge and belief of that person after proper inquiry including inquiry which a reasonable person would be prompted to make by reason of knowledge of a fact; and
 - (l) a reference to proper enquiry includes enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact.

3. Closing Time

- 3.1. Tenders must be lodged before the Closing Time.
- 3.2. The time displayed on AusTender is deemed to be the correct time and will be the means by which DIBP will determine that Tenders have been lodged by the Closing Time.
- 3.3. Notwithstanding **clause 3.2**, the judgment of DIBP as to the time a Tender has been lodged will be final.

- 3.4. DIBP may extend the Closing Time for all Tenderers, at its sole and absolute discretion. If it does so, DIBP will issue an addendum notifying Registered Tenderers of the extension in accordance with **clause 15** (Issue by DIBP of Addenda and Notices).

4. Tender Lodgement

Requirement to use AusTender

- 4.1. Tenders in response to this RFT must be lodged electronically using the Electronic Tender Box on the AusTender website, in accordance with the Tender lodgement procedures set out in this RFT and on AusTender.
- 4.2. Tenders lodged by any other means, including by hand, facsimile or email, will not be considered.

AusTender

- 4.3. AusTender is the online tendering system for Australian Government departments and Agencies at <https://www.tenders.gov.au>. AusTender allows Tenderers to download tender documentation and upload Tender responses. Tenderers are required to first register with AusTender and provide their contact details.
- 4.4. Access to and use of AusTender is subject to the terms and conditions set out on AusTender. Tenderers agree to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at <https://www.tenders.gov.au/?event=public.termsOfUse>.
- 4.5. Where there is any inconsistency between the tender lodgement procedures set out on AusTender and those set out in this RFT, this RFT will prevail to the extent of the inconsistency.
- 4.6. It is the responsibility of Tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither DIBP nor the Commonwealth take any responsibility for any problems arising from Tenderers' infrastructure and/or Internet connectivity.
- 4.7. Tenderers are required to inform themselves concerning all security measures and other aspects of the AusTender Information and Communications Technology (ICT) environment. Tenderers should make their own assessment of the AusTender system prior to using it for any matter related to this RFT and no responsibility will be accepted by DIBP arising in respect of any use or attempted use by any party of AusTender.
- 4.8. All queries and requests for technical or operational support in respect of AusTender are to be directed to:

AusTender Help Desk

Telephone: 1300 651 698

International: +61 2 6215 1558

Email: Tenders@finance.gov.au

- 4.9. The AusTender Help Desk is available between 9:00am and 5:00pm (local time in Canberra, ACT), Monday to Friday, excluding ACT and Australian national public holidays.

Virus Checking

- 4.10. In submitting their Tenders electronically, Tenderers warrant that they have taken reasonable steps to ensure that Tender response files are free of viruses, malicious code, worms or other disabling features that may affect the integrity or security of AusTender and/or DIBP computing environment. DIBP may exclude from evaluation any Tender response file which it reasonably considers contains Harmful Code.

Tender File Formats, Naming Conventions and Sizes

- 4.11. Tenderers are required to lodge their Tender in accordance with the requirements set out in this **clause 4** for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in:
- (a) the Tender not uploading properly before the Closing Time;
 - (b) the Tender not being successfully lodged before the Closing Time; and/or
 - (c) DIBP being unable to open, read or decrypt the Tender or part of the Tender, in which case DIBP may eliminate the Tender or part of the Tender from further consideration or evaluation.
- 4.12. DIBP will accept Tenders lodged in formats compatible with Microsoft Word 2010 (or later version), Microsoft Excel 2010 (or later version), Portable Document Format or as agreed in writing by the Contact Officer.
- 4.13. The Tender file name/s need to:
- (a) incorporate the Tenderer's name;
 - (b) reflect the AusTender ATM Number;
 - (c) reflect the various parts of the Tender they represent, where the Tender comprises multiple files;
 - (d) not contain any special characters, including the following characters: \ / : * ? " < > | (Tenderers should note that AusTender will not allow files containing these characters to be uploaded); and
 - (e) not exceed 100 characters including the file extension (Tenderers should note that AusTender will not allow files with names exceeding this requirement to be uploaded) .
- 4.14. Tender response files:
- (a) may not exceed a combined file size of five (5) megabytes per upload;
 - (b) should be uploaded from a high level directory on a Tenderer's desktop, so as not to impede the upload process;
 - (c) should be zipped (compressed) together for transmission to AusTender (Tenderers should contact the Contact Officer if they wish to use compression software other than 'WinZIP' or 'WinRAR' compression software, and may only do so if approved by the Contact Officer in writing);

- (d) should not be selected from a secure or password protected location, or from portable media such as a CD, DVD or USB;
 - (e) should not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by DIBP; and
 - (f) should not be encrypted in any way, unless otherwise required by this RFT or approved by the Contact Officer in writing.
- 4.15. AusTender will accept up to a maximum of five (5) files in any one upload of a Tender. Each upload should not exceed the combined file size limit of five (5) megabytes. If an upload would otherwise exceed 5 megabytes, the Tenderer should either:
- (a) transmit the Tender files as a compressed (zip) file not exceeding five (5) megabytes; or
 - (b) lodge the Tender in multiple uploads ensuring that each upload does not exceed five (5) megabytes and clearly identify each upload as part of the Tender.
- 4.16. If a Tender consists of multiple uploads, due to the number of files or file size, Tenderers should ensure that transmission of all files is completed before the Closing Time.
- 4.17. Tenders are required to be completely self-contained. No hyperlinked or other material may be incorporated by reference.

Scanned or Imaged Material, including Statutory Declarations

- 4.18. If this RFT requires a Tender to include a document that is to be signed and/or initialled on behalf of the Tenderer, including statutory declarations, deed polls, and deeds of confidentiality:
- (a) that document is to be physically signed (a typed or electronic signature is not permitted);
 - (b) the signed and/or initialled document should be scanned using Portable Document Format or other format approved by DIBP in writing;
 - (c) the total file size of the scanned document must not exceed the five (5) megabyte limit. The use of scanned or imaged material, where it expands the Tender file size beyond the five (5) megabyte limit per upload, is prohibited; and
 - (d) the scanned document is to be included in the Tender.
- 4.19. DIBP may require Tenderers to courier or security post the originals of signature and initialled pages to DIBP after the Closing Time at the Tenderer's cost. Receipt of these documents, including time and date, will be provided to the Tenderer by the Contact Officer.

Lodgement Process

- 4.20. Before submitting their Tender, Tenderers are required to:
- (a) ensure their technology platform meets the minimum requirements identified on AusTender;

- (b) refer to AusTender's help guidance, if required, on uploading Tenders;
 - (c) take all steps to ensure that the Tender is free from anything that might reasonably affect useability or the security or operations of AusTender and/or DIBP's computing environment;
 - (d) ensure that the Tender does not contain links in spreadsheets or documents to other spreadsheets or documents not included in the Tender, macros, script or executable code of any kind unless that specific material has previously been approved in writing by DIBP; and
 - (e) ensure that the Tender complies with all file type, format, naming conventions, size limitations or other requirements specified in this RFT or otherwise advised by DIBP or required by AusTender.
- 4.21. Tenderers should allow sufficient time for Tender lodgement, including time that may be required for any problem analysis and resolution prior to the Closing Time.
- 4.22. Tenderers should be aware that holding the "Lodge a Response" page in the web browser will not hold the Electronic Tender Box open beyond the Closing Time. An error message will be issued if the lodgement process is attempted after the Closing Time.
- 4.23. If Tenderers need to lodge any material that cannot be submitted via AusTender, Tenderers should contact the Contact Officer prior to the Closing Time to make arrangements for its submission. Unless otherwise agreed by the Contact Officer, any material that is not submitted via AusTender will not be accepted by DIBP.
- 4.24. Tenders lodged through AusTender will be deemed to be authorised by the Tenderer.
- 4.25. If Tenderers have any problem in accessing the AusTender website or uploading a Tender they must contact DIBP via the nominated Contact Officer and the AusTender Help Desk referenced in **clause 4.8** prior to the Closing Time. Failure to do so will exclude a Tender from consideration.

Proof of Lodgement

- 4.26. When a Tender lodgement has successfully completed, an official receipt is provided on screen. The on-screen receipt will record the time and date the Tender was received by AusTender and will be conclusive evidence of successful lodgement of a Tender. Tenderers should save and print this receipt as proof of lodgement. A separate email confirming receipt of the Tender will also be automatically dispatched to the email address of the registered user whose details were recorded at login.
- 4.27. Failure to receive a receipt means that lodgement has not completed successfully. Where AusTender has issued no receipt, the attempted lodgement will be deemed to have been unsuccessful. Tenderers should refer to **clause 4.20** and **clause 4.25**.

AusTender Security

- 4.28. Tenderers acknowledge that although the Commonwealth has implemented the security measures described on AusTender, the Commonwealth does not warrant that unauthorised access to information and data transmitted via the Internet will not occur.
- 4.29. Tenderers acknowledge that DIBP will not be liable for any Loss incurred by Tenderers or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.

Late Tenders, Incomplete Tenders and Corrupted Files

- 4.30. Tenders which are not properly submitted before the Closing Time will not be accepted unless the delay in Tender lodgement is as a consequence of mishandling by DIBP or another Agency.
- 4.31. Lodgement of Tenders before the Closing Time is entirely the Tenderer's responsibility.
- 4.32. Tenderers should be aware that AusTender will not permit any attempt to commence lodging a Tender, or any discrete component of a Tender, after the Closing Time. Such a Tender will be deemed to be a Late Tender.
- 4.33. Where electronic submission of a Tender has commenced prior to the Closing Time but concluded after the Closing Time, and upload of the Tender file/s has completed successfully, as confirmed by AusTender system logs, the Tender will not be deemed to be a Late Tender. Such Tenders will be identified by AusTender to DIBP as having commenced transmission prior to, but completed lodgement after, Closing Time.
- 4.34. Where a Tender lodgement consists of multiple uploads, due to the number and/or size of the files, Tenderers must ensure that transmission of all files is completed and receipted before the Closing Time and **clause 4.33** will only apply to the final upload commenced before the Closing Time.
- 4.35. Late Tenders, Tenders that are incomplete due to a failure to upload all files by the Closing Time, Tenders with electronic files that cannot be read or decrypted, Tenders which DIBP believes to potentially contain any virus, malicious code, worms, other disabling features or anything else that might compromise the integrity or security of AusTender and/or DIBP's computing environment, may be excluded from evaluation.

5. DIBP Contact Officer and Enquiries about the RFT**Contact Officer**

- 5.1. All enquiries in relation to this RFT should be:
- (a) in accordance with **clause 5.4** and by email;
 - (b) directed to, and only to, the Contact Officer; and
 - (c) received by the Contact Officer at least four (4) Business Days before the Closing Time.

- 5.2. DIBP may, at its sole and absolute discretion, refuse to accept any enquiry not made in accordance with **clause 5.1**.
- 5.3. No person other than the Contact Officer is authorised by DIBP to answer or respond to enquiries relating to this RFT. A Tenderer that communicates other than to the Contact Officer in relation to this RFT may be excluded from participating further in this RFT Process.
- 5.4. All enquiries in relation to this RFT should be:
- (a) in the form of the RFT Question Form set out at **Form 25 of Attachment F** (Tenderer Response Forms); and
 - (b) in Microsoft Word 2010 (or later version) compatible format.
- 5.5. Tenderers may submit any number of RFT Question Forms. A new RFT Question Form is to be used for each enquiry. DIBP will not respond to questions that are not submitted on an RFT Question Form.
- 5.6. DIBP encourages Tenderers to send enquiries as soon as they arise, rather than waiting to send all enquiries at one time.
- 5.7. Tenderers should complete each field of the "Required Question Submission Information" in the RFT Question Form.
- 5.8. All RFT Question Forms should have a file name in the following format:
- [Tenderer Name][Tenderer Question Form Sequence Number].docx
- where:
- (a) "[Tenderer Name]" is replaced with the Tenderer's name or an easily and consistently identified short name or acronym; and
 - (b) "[Tenderer Question Form Sequence Number]" is replaced with the sequence number of the Tenderer's question form, expressed as a three digit number.

Note to Tenderers: For example, the 3rd RFT Question Form submitted from Tenderer ABC should have the file name "ABC003.docx"

- 5.9. DIBP intends to provide all Registered Tenderers with access to the questions and answers to enable so far as practicable all Tenderers to have the opportunity to access the same information relating to the RFT (unless identified as commercial in-confidence by a Tenderer).
- 5.10. DIBP reserves the right to issue any addenda in accordance with **clause 15** (Issue by DIBP of Addenda and Notices), setting out any enquiry in relation to this RFT and DIBP's response, on a non-attributable basis.
- 6. Tender Validity Period**
-
- 6.1. Tenders are to remain valid for acceptance by DIBP for the Tender Validity Period.

7. **Intended Timeframe For The RFT Process**

- 7.1. The RFT Details in **Part 1** set out DIBP's intended timetable for the RFT Process. However, any time or date set out in this RFT (other than the Closing Time) is indicative only, and creates no obligation on DIBP, or any right in a Tenderer, in relation to these dates.

8. **Industry Briefings**

- 8.1. Where the RFT Details in Part 1 indicate that there will be an Industry Briefing:
- (a) the Industry Briefing will be open for Registered Tenderers to clarify DIBP's objectives and priorities for this RFT and to respond to questions arising out of the RFT Process;
 - (b) Registered Tenderers will be required to register their attendance at the Industry Briefing;
 - (c) DIBP may change the date, location and/or time of the Industry Briefing at its absolute discretion, by issuing an addenda in accordance with **clause 15** (Issue by DIBP of Addenda and Notices);
 - (d) if in the course of the Industry Briefing it becomes clear to DIBP, in its sole and absolute discretion, that it is necessary to distribute additional information relating to or concerning this RFT and/or the Services, then DIBP reserves the right to distribute that information to all Registered Tenderers in accordance with **clause 15** (Issue by DIBP of Addenda and Notices);
 - (e) Tenderers may not rely on a statement made at the Industry Briefing as amending or adding to this RFT unless that amendment or addition is confirmed by DIBP in writing in accordance with **clause 15** (Issue by DIBP of Addenda and Notices) and **clause 31.2** will apply to any information given at the Industry Briefing; and
 - (f) attendance at the Industry Briefing will be at the Registered Tenderer's own cost.

9. **Provision of other materials by DIBP**

- 9.1. Unless indicated by the RFT Details, DIBP is not making available to Tenderers any materials or information other than that contained or referred to in this RFT.
- 9.2. Where the RFT Details indicate that other information or materials will be made available to Registered Tenderers:
- (a) DIBP will provide Registered Tenderers with access to further information and material (in either electronic or physical form) which may be relevant to this RFT, on condition that before being given access to the information, the Registered Tenderer must execute and provide to DIBP a Confidentiality Deed Poll, in substantially the form set out in **Appendix B of Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
 - (b) Registered Tenderers requiring access to the industry brief must contact the Contact Officer no later than one (1) Business Days before the Closing Time to obtain that material.

10. Format for Tenders

- 10.1. Subject to **clauses 18** and **32**, Tenders should be completed in accordance with **Attachment F** (Tenderer Response Forms), noting the following:
- (a) all applicable information should be provided in response to the information requirements set out in **Attachment F** (Tenderer Response Forms);
 - (b) all responses, including attachments, should be written in English;
 - (c) all word limits should be adhered to; and
 - (d) where a response to a particular requirement is covered in another section of the Tender, a cross reference to that section should be provided.
- 10.2. Tenderers may include additional or support materials (as supplements or attachments to the Tender response information in **Attachment F** (Tenderer Response Forms) noting that Tenderers are discouraged from including generic marketing information that does not relate to the information requested in this RFT and/or does not address the Evaluation Criteria.
- 10.3. Tenderers who wish to:
- (a) negotiate any of the provisions of **Attachment B** (Statement of Requirement) or **Attachment D** (Draft Contract); or
 - (b) claim confidentiality in relation to any aspects of their Tender,
- should complete **Form 6** (Details of Confidential Information) in **Attachment F** (Tenderer Response Forms) and **Form 9** (Statement of Non-Compliance) in **Attachment F** (Tenderer Response Forms).
- 10.4. **Clause 10.1** does not limit or add to the Mandatory Content and Format Requirements as set out in **Part 1**.

11. Part Tenders

- 11.1. Unless otherwise indicated in the RFT Details, Tenderers are to offer to provide the entire Services and no Tenders for only part of the Services will be allowed. DIBP will exclude from further consideration any Tender which offers only part of the Services.

Note to Tenderers: THIS IS A MINIMUM CONTENT AND FORMAT REQUIREMENT.

- 11.2. Not Used.
- 11.3. DIBP intends to select a single Tenderer for all of the Services.

12. No Consortia or Joint Tenders; Subcontract arrangements

- 12.1. A Tender is required to be submitted by a single legal entity that exists at the Closing Time and who proposes to contract with DIBP for provision of the Services.

- 12.2. The successful Tenderer (if any) may, with the prior consent of DIBP, subcontract part of the Services in accordance with **Attachment D** (Draft Contract). The successful Tenderer (if any) must ensure that its Subcontractors, when undertaking any part of the Services, are aware of their obligations to comply with the same terms and conditions of Contract as that imposed on the successful Tenderer.
- 12.3. The successful Tenderer to this RFT (if any) must:
- (a) agree to the public disclosure of the names of any Subcontractors engaged to perform any of the Services;
 - (b) inform relevant Subcontractors that their participation in fulfilling any of the Services may be publicly disclosed.
- 12.4. The successful Tenderer (if any) must ensure that its Subcontractors, when undertaking any part of the Services, are aware of their obligations to comply with the same terms and conditions of the Contract as that imposed on the successful Tenderer.

13. **Alternative Tenders**

- 13.1. DIBP may consider an alternative approach or solution that does not meet all aspects of the Services as long as the Tenderer also submits a separate Tender containing a solution which does so. Tenderers should provide in any alternative Tenders a response which clearly:
- (a) complies with any Conditions for Participation and Minimum Content and Format Requirements set out in **Part 1**;
 - (b) proposes a solution which satisfies the functionality and performance requirements of the Services;
 - (c) separately identifies, in detail, the proposed alternative approach or solution;
 - (d) specifies each instance of change from the Services;
 - (e) states the reasons for each instance of change; and
 - (f) demonstrates that the proposed alternative approach or solution is more beneficial to DIBP than the approach specified in this RFT.
- 13.2. Failure to provide this information may result in DIBP not considering the alternative Tender.

14. **Disclosure**

- 14.1. The Tenderer should disclose in the completed Tenderer Declaration at **Form 2** of **Attachment F** (Tenderer Response Forms) all relevant information, including any regulatory issues, litigation, arbitration, mediation, conciliation or proceeding, or any investigations (**Proceedings**), that, to the best of the Tenderer's knowledge and belief after having made proper enquiry, are taking place, pending or threatened, against it or a Related Body Corporate where such Proceedings will or have the potential to impact adversely upon either:
- (a) the Tenderer's capacity to perform and fulfil its obligations if contracted as a result of the RFT Process; or

(b) the Tenderer's reputation.

- 14.2. In circumstances where there are no Proceedings as detailed in **clause 14.1**, Tenderers should declare in the completed Tenderer Declaration at **Form 2 of Attachment F** (Tenderer Response Forms) that there are no Proceedings (as defined in **clause 14.1**).
- 14.3. DIBP will consider the Tenderer's response to this **clause 14**, and the commercial, technical or financial capacity of the Tenderer or any Subcontractor proposed in the Tender, including the existence of any breach or default or alleged breach or default of any agreement, order or award building upon the Tenderer as part of the evaluation.

15. Issue by DIBP of Addenda and Notices

- 15.1. DIBP may vary, supplement or clarify this RFT at any time, by issuing notices and other information as addenda posted on the page for this RFT on AusTender, prior to the Closing Time.
- 15.2. AusTender will notify Tenderers who have registered and downloaded this RFT documentation via email of the issue of any addenda. It is in the interest of Tenderers to ensure they have correctly recorded their contact details prior to downloading RFT documentation. If Tenderers have not recorded their details correctly, they should amend their details and download this RFT documentation again. If a Tenderer has obtained RFT documentation other than from AusTender, they should visit AusTender, register as a user and download this RFT documentation.
- 15.3. Tenderers are required to log in to AusTender and collect addenda as notified.
- 15.4. The Commonwealth of Australia and DIBP will accept no responsibility if a Tenderer fails to become aware of any addendum notice which would have been apparent from a visit to the AusTender page for this RFT. A Tenderer will not be allowed to amend its Tender as a result of its failure to be aware of any issued addenda.
- 15.5. Each addendum forms part of this RFT upon issue.
- 15.6. If a Tenderer finds or reasonably believes it has found any discrepancy, error, ambiguity, inconsistency, omission or misleading statement (error) in this RFT, or in any other information given or made available by DIBP, the Tenderer should promptly notify the Contact Officer in writing setting out the error in sufficient detail. Any consequential amendment of this RFT or information provided by DIBP will be made available to all Tenderers in accordance with this **clause 15**.

16. Issue by DIBP of Requests for Clarification

- 16.1. If DIBP requires clarification of information contained in a Tender, it will request clarification from the Tenderer in writing. DIBP will not accept information provided in response to a request for clarification if that information alters the original Tender in any material respect. If the Tenderer fails to supply clarification to the satisfaction of DIBP, DIBP may exclude the Tender from further consideration.

- 16.2. Tenderers should:
- (a) respond to any request for clarification within the time period and in the format specified by DIBP;
 - (b) ensure that clarifying information provided answers DIBP's enquiry and is fully consistent with the Tender submitted by the Tenderer; and
 - (c) not seek to materially alter any aspect of their Tender by providing additional information to DIBP.
- 16.3. DIBP may require the Tenderer to submit similar information to that required by this RFT in respect of any proposed Subcontractors if that information was not already required to be included in the Tender by this RFT.
- 16.4. The Tenderer should not interpret a request to clarify the Tender as being an indication that its organisation will or will not be the preferred Tenderer. The Tenderer should treat all contacts as strictly confidential and not disclose the details of any contacts to any third parties. A Tenderer's failure to observe confidentiality may result in the exclusion of their Tender from further consideration.

17. Corrections by a Tenderer After Lodgement

- 17.1. If, after submission of a Tender but before the Closing Time, a Tenderer becomes aware of any discrepancy, error or omission in the Tender and wishes to lodge a correction or additional information, it must resubmit its whole Tender in accordance with this RFT, clearly stating that the Tender is a replacement Tender. Where more than one Tender has been submitted, DIBP will evaluate the last submitted Tender.
- 17.2. DIBP is not under any obligation to consider any corrections or additional information provided after the Closing Time. DIBP will consider this material only where it considers it appropriate to do so.

18. Unintentional Errors of Form

- 18.1. An unintentional error of form is an error that DIBP is satisfied:
- (a) represents incomplete information not consistent with the Tenderer's intentions and, if relevant, capabilities at the time the Tender was lodged; and
 - (b) does not materially affect the competitiveness of the Tenderer's bid.
- 18.2. If DIBP considers that there are unintentional errors of form in a Tender, DIBP may request, in its sole and absolute discretion, the Tenderer to correct or clarify the error by lodging a correction or additional information in writing in accordance with the direction of DIBP, but DIBP will not permit any material alteration or addition to the Tender.
- 18.3. If DIBP provides any Tenderer with the opportunity to correct errors of form, it will provide the same opportunity to all other Tenderers that are in the same position.

19. Compliance

- 19.1. Subject to clause 18, a Tender that does not:

- (a) satisfy the Conditions for Participation (see RFT Details of **Part 1**); or
- (b) satisfy the Minimum Content and Format Requirements (see RFT Details of **Part 1**),

will be automatically excluded from consideration.

- 19.2. Without limiting DIBP's rights to seek clarifications, a Tender that contains non-compliances (in the Tenderer's completed Statement of Non-Compliance set out in **Form 9 of Attachment F** (Tenderer Response Forms)) that DIBP considers in its absolute discretion are material, may be excluded from consideration as being incomplete or clearly not competitive.

20. Presentations, Interview and Tenderer Site Visits

- 20.1. DIBP may, at its sole discretion, require the Tenderer to give a presentation regarding its Tender, attend an interview and/or host a site visit to the Tenderer's premises (or other premises where the Services will be provided). Such requirements will be at DIBP's sole discretion.
- 20.2. Any costs incurred by the Tenderer in relation to any presentations, interview or site visits will be borne by the Tenderer.

21. Pricing

- 21.1. Tenderers should provide full details of their proposed price structure in **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms) to allow DIBP to determine whether prices are reasonable in the context of the Commonwealth assessment of value for money. This document should be included in a separate electronic file when the Tender is lodged and no pricing should be included in any other part of the Tender.

- 21.2.  s47C

- 21.3. Tenderer prices should cover all costs associated with implementation, supply, delivery, installation, connection, testing, licensing, coordinating and administering the Services in accordance with **Attachment B** (Statement of Requirement) and the **Attachment D** (Draft Contract), including supplier overheads and finance costs, return on equity and any other development costs.

- 21.3.1. If the Tender is an alternative Tender, the Tenderer should provide the price differential for any alternative solutions.

- 21.4. DIBP will not pay any costs for any aspect of the Services unless these are clearly articulated by the Tenderer prior to entering into any Contract.

- 21.5. Information in the Pricing Schedule at **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms) should:

- (a) be inclusive of all charges, expenses and Taxes, subject to the requirements regarding Goods and Services Tax (**GST**);
 - (b) be identified in both GST inclusive and GST exclusive terms;
 - (c) apply for the duration of the Tender Validity Period; and
 - (d) contain all additional information on price required by this RFT.
- 21.6. Prices should be in Australian dollars. However hedging of funds is not in accordance with current Australian Government policy and therefore Tenderers may submit pricing in currency other than AUD. Where any portion of the Pricing Schedule is in foreign currency, Tenders should clearly specify the currency being used. Tenderers should not convert any relevant amounts of foreign currency into Australian dollars. In evaluating the Tenderer's pricing response to **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms), DIBP will apply the relevant exchange rate published by the Reserve Bank of Australia at the Closing Time.
- 21.7. All assumptions or other caveats on which the Tender is based and the effect of the assumptions or other caveats on prices, as well as information or events required to remove assumptions and caveats on prices, are to be included in the Tenderer's completed Pricing response at **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms).
- 21.8. Any Tender in which prices are not clearly and legibly stated may be excluded from consideration.

22. No Contract; Disclaimer; Acceptance of Tenderer's Offer

- 22.1. This RFT is an invitation to treat and is not to be taken as an offer to enter into a contract, or any sort of recommendation, nor does it include any tax, commercial or investment advice.
- 22.2. Without limiting the legal effect of:
- (a) any Deed of Confidentiality (including the Confidentiality Deed Poll at **Appendix B** to **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll) lodged by the Tenderer; and
 - (b) the Tenderer Declaration (**Form 2** of **Attachment F** (Tenderer Response Forms) lodged by the Tenderer,
- and subject to this **clause 22**, nothing in this RFT will be construed to create any binding contract (express or implied) between DIBP and the Tenderer unless and until a contract is entered into with the successful Tenderer(s) (if any). The Tenderer is, however, required to comply with obligations expressed to apply to them in this RFT.
- 22.3. Lodging a Tender will constitute an offer in accordance with this RFT by the Tenderer.
- 22.4. DIBP may accept the whole or any part of the Tenderer's offer. Neither the lowest priced Tender, nor any Tender, will necessarily be accepted by DIBP.

- 22.5. Despite the evaluation of Tenders resulting in the selection of a preferred Tenderer, the acceptance or purported acceptance of any Tender by DIBP is subject to the execution of a Contract, in a form acceptable to DIBP, between the preferred Tenderer and DIBP.
- 22.6. The issue of this RFT (and/or the submission of any Tender) does not create any legal relationship or obligation (or quasi-legal relationship or obligation) in respect of:
- (a) the process to be followed (including in relation to evaluation and assessment of any Tender); or
 - (b) entering into a Contract with the Tenderer.
- 22.7. Any conduct or statement whether prior to or subsequent to the issue of this RFT is not, and must not be deemed to be:
- (a) an offer to contract by DIBP; or
 - (b) a binding undertaking of any kind by DIBP on the basis or any promissory estoppel, quantum meruit, quantum valebat, or any other contractual, quasi-contractual or restitutionary grounds or in negligence.
- 22.8. Despite **clause 22.6** and **clause 25**, if a court finds there to be a contract between DIBP and a Tenderer regarding the conduct of this RFT Process, the Tenderer agrees that DIBP's general liability in connection with this RFT Process (e.g. for negligence, breach of statute or otherwise), and any breach of the terms of such a contract is limited to the Tenderer's direct substantiated costs of participation in the RFT Process, not exceeding an amount of \$100,000 (excluding GST).
- 22.9. For the avoidance of doubt, DIBP will not be, and is not liable for any incidental, indirect or consequential loss or damage including loss of actual or anticipated revenue or profits, loss of business opportunity, loss of goodwill or other losses of the Tenderer.

23. Outcome of the RFT Process

- 23.1. DIBP proposes to enter into an agreement with the successful Tenderer (if any) substantively in the form of the Contract in **Attachment D** (Draft Contract) for the provision of the Services.

24. Debriefing

- 24.1. If a Tender is unsuccessful, the Tenderer will be notified in writing and offered an opportunity for a debriefing. If the Tenderer would like a debriefing, it should contact the Contact Officer to arrange a suitable time.
- 24.2. Tenderers will be debriefed against the Evaluation Criteria set out in **Part 3**. In accordance with Commonwealth policy, a Tenderer will not be provided with information concerning other Tenders or Tenderers, except for publicly available information.

25. Cost of preparing and submitting a Tender

- 25.1. Participation in any stage of the RFT Process, or in relation to any matter concerning this RFT, will be at the Tenderer's sole risk, cost and expense. DIBP will not be responsible in any circumstance for any costs or expenses incurred by the Tenderer or any other person in responding to or taking other action in relation to the RFT Process even if DIBP exercises or fails to exercise any of its rights under this RFT, or in respect of any discussions, negotiations, enquiries in relation to taking part in this RFT Process or any work undertaken by the Tenderer its Tender is lodged.
- 25.2. Without limiting clauses 22.3 and 25.1, but subject to clause 22.2, DIBP is not liable to the Tenderer on the basis of any promissory estoppel, quantum meruit, quantum valebat, or any other contractual, quasi-contractual or restitutionary grounds or in negligence as a consequence of any matter or thing relating to or incidental to a Tenderer's participation in the RFT Process, including (without limitation):
- (a) the procurement process for this RFT;
 - (b) where a Tenderer is not successful under the RFT Process;
 - (c) where DIBP varies, suspends or terminates the RFT Process or negotiates with a Tenderer; or
 - (d) where DIBP exercises, or fails to exercise, any of its rights under or in relation to this RFT.

26. Intellectual Property Rights in Tender Documents

- 26.1. All Intellectual Property Rights in this RFT are vested in the Commonwealth.
- 26.2. The Tenderer is permitted to use this RFT for the purpose only of compiling its Tender and, in the case of the Tenderer(s) selected through this RFT Process, for negotiating Contract with DIBP.
- 26.3. The Tenderer agrees that all Tenders become the property of DIBP and that DIBP, and anyone assisting DIBP, may copy, adapt, modify, disclose, communicate or do anything else to all material contained in the Tender which DIBP considers necessary for the purpose of:
- (a) evaluating or clarifying the Tender (including any subsequent offer);
 - (b) negotiating any resultant Contract with the Tenderer;
 - (c) managing any resultant Contract with the Tenderer;
 - (d) complying with any Law;
 - (e) referring any material suggesting collusion by Tenderers to the Australian Competition and Consumer Commission (**ACCC**) and the use by the ACCC of that material to conduct any review it deems necessary;
 - (f) providing information to another person in the situations specified in **clause 27.4 or 27.5** (Confidentiality); and
 - (g) anything else related to the above purpose or otherwise to the RFT Process, including audit and complying with governmental and parliamentary reporting requests and requirements.

- 26.4. However, **clause 26.3** does not transfer ownership of any intellectual property rights in the information contained in the Tender to DIBP (these remain vested in the person with the original ownership of that intellectual property).

27. Confidentiality

General

- 27.1. Tenderers acknowledge that DIBP, as a non-corporate Commonwealth entity, is subject to a number of specific accountability requirements, which support internal and external scrutiny of its tendering and contracting processes. These include:
- (a) the requirement to publish details of relevant entity agreements and contracts with an estimated value of \$10,000 or more on AusTender, within six (6) weeks of entering into the agreement or contract;
 - (b) the requirement to publish details of relevant standing offers, regardless of value, on AusTender, within six (6) weeks of entering into the agreement;
 - (c) the requirement to report details of all Commonwealth agreements, standing offers and contracts valued at \$100,000 or more, which have not been fully performed or which have been entered into during the previous 12 months, on the internet with access through the Department's home page, and identify confidentiality requirements in accordance with the Senate Order on Department and Agency Contracts, including:
 - i. name of the service provider and the subject matter of the agreement, standing offer or contract;
 - ii. total value of the agreement, standing offer or contract; and
 - iii. whether the agreement, standing offer or contract contains clauses that are confidential, and if so, the reasons for confidentiality;
 - (d) the requirement to publish information about certain procurements in Annual Reports;
 - (e) the requirement to make available, on request, the names of any Subcontractors engaged to perform the Services in relation to a Commonwealth agreement, standing offer or contract (as such, Tenderers should inform all potential Subcontractors that their participation in fulfilling a Commonwealth agreement, standing offer or contract may be publicly disclosed);
 - (f) disclosure requirements under the *Freedom of Information Act 1982* (Cth);
 - (g) compliance with record keeping policies, standards and guidelines; and
 - (h) compliance with record keeping obligations under the *Archives Act 1983* (Cth).

Disclosure to Parliament and its Committees

- 27.2. Tenderers acknowledge that the Parliament and its Committees have the power to request or require the disclosure of Commonwealth agreements and contract information to enable them to carry out their functions.

DIBP's confidentiality obligations

- 27.3. Subject to this RFT Process and **clauses 27.4** and **27.5**, DIBP will endeavour to treat the following information as confidential:
- (a) all Tenders received prior to the entering into of a Contract;
 - (b) all unsuccessful Tenders, after the execution of a Contract; and
 - (c) all successful Tenders (if any), after the execution of a Contract but only to the extent that:
 - i. the successful Tenderer (if any) requests that specific information in its Tender be kept confidential; and
 - ii. DIBP has determined that specific information is to be kept confidential in accordance with Department of Finance guidance entitled 'Confidentiality throughout the Procurement Cycle' and has agreed, pursuant to the Contract with the successful Tenderer (if any), to keep that information confidential.

Limitation of obligation of confidentiality

- 27.4. The obligation of confidentiality in **clause 27.3** does not apply if the Confidential Information:
- (a) is disclosed by DIBP to its Personnel and contractors solely in order to conduct this RFT Process, evaluate the Tender and during contract negotiations;
 - (b) is disclosed to DIBP's internal management Personnel or auditors, solely to enable effective management or auditing of this RFT Process and contract related activities;
 - (c) is disclosed by DIBP to the responsible Minister;
 - (d) is disclosed by DIBP, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - (e) is shared by the Commonwealth within the Commonwealth's organisation, or with another Agency, where this serves the Commonwealth's legitimate interests;
 - (f) is authorised or required by Law to be disclosed;
 - (g) is disclosed to meet DIBP's reporting or accountability requirements including, without limitation:
 - iii. under the *Public Governance, Performance and Accountability Act 2013* (Cth) or other legislation;
 - iv. to the Australian National Audit Office or any other auditor appointed by DIBP;
 - v. in accordance with the provisions that require notification of Commonwealth agreements, contracts and standing offers on the AusTender website (www.tenders.gov.au);
 - vi. to the Commonwealth Ombudsman; or
 - (d) is in the public domain otherwise than due to a breach of **clause 27.3**; or
 - (e) is disclosed with the consent of the Tenderer.

- 27.5. DIBP may provide any information supplied by a Tenderer in its Tender or as part of this RFT Process to any other Commonwealth Agency to assist that Agency to determine if it wishes to take advantage of the Tenderer's offer to provide the Services to that Commonwealth Agency. The provisions of this **clause 27** will apply in respect of the relevant Commonwealth Agency as if references to DIBP were references to that Commonwealth Agency.

Preservation of confidentiality

- 27.6. Once the RFT Process has been finalised, DIBP will not keep such information provided by the successful Tenderer confidential unless it, in its absolute discretion, considers it appropriate to do so having regard to the matters covered by the Commonwealth's *Guidance on Confidentiality in Procurement* (see also clause 47 (Confidentiality and privacy) of **Attachment D** (Draft Contract)).

DIBP Confidential Information

- 27.7. DIBP may provide additional information in relation to this RFT only to the Tenderer once it has registered to receive this RFT. Some of this information may be DIBP Confidential Information.
- 27.8. Before DIBP will provide the potential Tenderer with information referred to in **clause 27.5** the potential Tenderer must execute and submit a Confidentiality Deed Poll substantially in the form of **Appendix B to Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll) (to be provided by DIBP, relating to the use and non-disclosure of DIBP Confidential Information). If the potential Tenderer wishes to receive this information it should submit the Confidentiality Deed Poll in electronic form to the Contact Officer as soon as possible after the release of this RFT, to allow sufficient time to address the information provided by DIBP in its Tender. DIBP will not be obliged to provide the potential Tenderer with any DIBP Confidential Information if the potential Tenderer's Confidentiality Undertaking is received by DIBP less than four (4) days prior to the Closing Time.

28. Conflict of Interest

- 28.1. The Tenderer should not, and should ensure that its Personnel do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of DIBP and the Tenderer's interests during this RFT Process. A conflict of interest may arise where there is an affiliation or interest that might prejudice, or be seen to prejudice, a person's impartiality.
- 28.2. Tenderers are required to immediately notify DIBP if the Tenderer becomes aware of an actual or potential conflict of interest, concerning the Tenderer or a Related Body Corporate in respect of this RFT, its Tender or the provision of the Services under any contract arising from this RFT Process, at any time before the completion of the RFT Process which is not fully disclosed in its Tender (see clauses 5 and 11 of the Tenderer Declaration set out at **Form 2** of the **Attachment F** (Tenderer Response Forms)). A conflict of interest may exist if:

- (a) the Tenderer or any of its Personnel or Subcontractors have a relationship (whether professional, commercial or personal) with any personnel in DIBP; or
 - (b) the Tenderer has a relationship with, and obligations to, an organisation which would affect the performance of the Services or would bring disrepute to or embarrass DIBP; or
 - (c) the Tenderer or any of its Personnel or Subcontractors have a relationship which could affect DIBP's security.
- 28.3. If a Tenderer has or may have an actual or potential conflict of interest, DIBP may in its sole and absolute discretion:
- (a) enter into discussions to seek to resolve the conflict of interest;
 - (b) impose conditions on the Tenderer for the management of the actual or potential conflict of interest;
 - (c) disregard the Tender submitted by such a Tenderer; or
 - (d) take any other action which it considers appropriate.
- 28.4. If a Tenderer is unwilling or unable to enter into discussions under **clause 28.3(a)**, comply with the conditions imposed under **clause 28.3(b)** or otherwise resolve the actual or potential conflict of interest in a manner satisfactory to DIBP, DIBP may then exclude the Tender from further consideration (including terminating any contract negotiations).
- 28.5. If at any time prior to entering into a Contract for the Services, an actual or potential conflict of interest arises or may arise for any Tenderer, other than that already disclosed, that Tenderer should immediately notify DIBP in writing.

29. Public Statements

- 29.1. Tenderers may not make any public statements (by means of advertisement or otherwise) in relation to this RFT, or any subsequent Contract arising out of this RFT, without the prior written consent of DIBP. However, nothing in this **clause 29** is to be read as limiting a Tenderer's right to enter into public debate or criticism of the Australian Government, its Agencies, or Personnel.

30. Ethical Dealing

- 30.1. The Tenderer must not:
- (a) lodge a Tender that has been compiled with improper assistance of current or former DIBP Personnel or uses information improperly obtained or in breach of an obligation of confidentiality;
 - (b) engage in misleading or deceptive conduct in relation to Tenders or the RFT Process;
 - (c) engage 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;
 - (d) attempt to solicit information from or influence improperly any DIBP Personnel, or violate any applicable Laws or Commonwealth policies

regarding the offering of inducements in connection with the RFT Process;
or

(e) otherwise act in an unethical or improper manner, or contrary to any Law.

30.2. DIBP may exclude from consideration any Tender lodged by a Tenderer that, in DIBP's opinion, has engaged in any behaviour contrary to **clause 30.1** in relation to the RFT Process. This right is in addition to any other remedies DIBP may have under Law or in any Contract with the successful Tenderer (if any).

31. Acknowledgement and Disclaimer

31.1. The Tenderer acknowledges and agrees that:

- (a) by lodging a Tender it accepts the conditions set out in this RFT;
- (b) lodgement of their Tender on time and in accordance with these Terms and Conditions is entirely their responsibility;
- (c) DIBP will not be liable for any Loss incurred by Tenderers or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT is not received on time, is corrupted or altered or otherwise not received as sent, cannot be read or decrypted, or has its security or integrity compromised;
- (d) DIBP does not warrant that unauthorised access to information and data transmitted via the internet will not occur (Tenderers should take their own measures to protect information transmitted electronically);
- (e) under subsection 137.1 of the *Criminal Code Act 1995* (Cth), giving false or misleading information to the Commonwealth is a serious offence;
- (f) the Tenderer is deemed to have:
 - i. examined this RFT, any documents referred to in it, and any other information made available in writing by DIBP to Tenderers for the purpose of tendering;
 - ii. examined all further information which is obtainable by the making of reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its Tender;
 - iii. satisfied itself as to the correctness and sufficiency of its Tender, including its Tendered prices;
 - iv. obtained independent advice on the effect of all relevant legislation in relation to the Tenderer's participation in this RFT; and
 - v. examined the AusTender Terms of Use which are obtainable on AusTender; and
- (g) DIBP may reject any Tender which is made subject to any due diligence or other investigation to be performed after a Tender is submitted.

31.2. All information (whether written, oral or in any other form) which has been and may subsequently be made available to the Tenderer is provided on the following conditions:

- (a) in deciding to lodge or not lodge a Tender, or in the interpretation of this RFT, the Tenderer does not rely on:
 - i. any representation (whether oral or in writing) other than as expressed in this RFT; or
 - ii. other conduct of DIBP or DIBP Personnel;
- (b) any information contained in this RFT or otherwise provided by DIBP may not be accurate and/or may change;
- (c) where any such information relates to future matters, no steps have been taken to verify that the information is based upon reasonable grounds, and no representation or warranty, expressed or implied, is made by DIBP, DIBP Personnel or contractors that the statements contained in this RFT or otherwise provided by DIBP will be achieved;
- (d) this RFT is designed to reflect and summarise information concerning DIBP's Services only and is not a comprehensive description of it;
- (e) neither the delivery of this RFT nor any Contract made subsequent to this RFT will imply that there has been no material change since the date of this RFT or since the date as at which any information contained in this RFT is stated to be applicable;
- (f) except as required by Law and only to the extent so required, DIBP, DIBP Personnel and contractors will not be liable to any person or body for any Loss arising from any information or representations, actual or implied, contained in or omitted from this RFT or other information provided by DIBP, or by reason of any reliance by any person or body on any such information or representation; and
- (g) the Tenderer should seek its own professional advice as appropriate and should not construe this RFT or other information provided by DIBP as investment, legal or tax advice.

31.3. The Tenderer is responsible for all costs and expenses related to the preparation and lodgement of their Tenders, any subsequent negotiations and any other action or response in relation to this RFT see **clause 25**.

32. DIBP's Rights

- 32.1. Notwithstanding anything else contained in this RFT or limiting its rights at Law or otherwise, DIBP may:
- (a) vary the terms of this RFT, or the structure, requirements or processes referred to in this RFT at any time;
 - (b) vary the timing referred to in this RFT;
 - (c) determine at any stage or stages after the Closing Time, short list(s) of Tenderers on any basis that DIBP considers appropriate;
 - (d) cease, suspend or vary the RFT Process, or any part of it, where this is in the public interest;
 - (e) seek additional information from any Tenderer or third party at any time (including but not limited to from or in respect of a Tenderer's proposed Subcontractors or agents);

- (f) provide additional information to all Tenderers at any time (and where the information is provided after the Closing Time, allow the submission of revised Tenders);
- (g) seek and/or contact any contacts or referees other than those proposed by Tenderers;
- (h) seek amended Tenders or call for new Tenders;
- (i) add to, alter, delete or exclude any part of the Services;
- (j) select and negotiate with one or more Tenderer (including but not limited to parallel negotiations) and/or discontinue any of those negotiations at any time for any reason;
- (k) publish or disclose the names of successful Tenderers or those who are shortlisted as a result of evaluations;
- (l) enter into a contract on terms different to those in **Attachment D** (Draft Contract);
- (m) exclude a Tender or reserves the right to reject a Tender, at its absolute discretion, if there has been a significant deficiency in the performance of a substantive requirement or obligation by the Tenderer under a prior agreement; and
- (n) allow or not allow a related entity to take over a Tender in substitution for the original Tenderer.

32.2. Without limiting its other rights under this RFT or at Law, if DIBP concludes that the preferred Tenderer has retracted, or attempts to retract, undertakings under which material technical, commercial, financial, corporate, relationship management, legal or contractual issues were resolved during negotiations, DIBP may choose to not proceed with that Tender and/or exercise another right given by this RFT.

32.3. DIBP will not be liable or in any way responsible for any Loss incurred by a Tenderer because DIBP:

- (a) exercises or fails to exercise any of DIBP's rights under this RFT; or
- (b) fails to inform a Tenderer of its exercise or non-exercise of those rights.

32.4. DIBP may reject any Tender lodged by a Tenderer that is engaging or has engaged in any conduct that contravenes any Laws or contravenes the Terms and Conditions as set out in this RFT.

32.5. Any request or invitation by DIBP to negotiate all or any part of a Tender will not be, nor be deemed to be, a representation by DIBP that the Tenderer's Tender will be, or is likely to be, accepted.

33. Right to terminate

33.1. Without limiting its rights at Law or otherwise, DIBP may terminate this RFT Process at any time if:

- (a) DIBP does not receive any Tenders in response to this RFT;
- (b) DIBP does not receive any Tenders in response to this RFT which meet the requirements outlined in **Attachment B** (Statement of Requirement);

- (c) after evaluating the Tenders received in response to this RFT DIBP determines that entering into a contract with any Tenderer does not represent an effective, efficient, ethical and economical use of resources;
- (d) in the opinion of DIBP, it is unlikely that negotiations with any Tenderer will achieve a value for money outcome for the Commonwealth; or
- (e) DIBP determines it is in the public interest to do so.

34. Participation of Other Commonwealth Agencies in this RFT process

- 34.1. This **clause 34** applies where the RFT Details indicate that, at the time of issuing this RFT, DIBP wishes or intends to facilitate other Commonwealth Agencies procuring the Services from the successful Tenderer (if any) in the future.
- 34.2. The successful Tenderer (if any) will be required to offer to provide the Services to other Commonwealth Agencies on substantially the same terms and conditions as it provides them to DIBP (including price i.e. Service Charges). Any Commonwealth Agency will be able to accept this offer by giving a notice to the successful Tenderer (if any). This will create a separate agreement between the successful Tenderer (if any) and the Commonwealth Agency issuing the notice. Tenderers are referred to **Attachment D** (Draft Contract) for further details.
- 34.3. DIBP makes no warranty, representation or assurance that any or any number of Commonwealth Agencies, or any particular Commonwealth Agency, will accept the offer of the successful Tenderer (if any) to provide the Services to other Commonwealth Agencies.
- 34.4. DIBP will not undertake any evaluation on behalf of any other Commonwealth Agency during its evaluation of this RFT. Other Commonwealth Agencies will undertake their own evaluation if and when they wish to consider the successful Tenderer's offer to provide the Services to it.
- 34.5. **Attachment B** (Statement of Requirement) sets out details of the other Commonwealth Agencies that wish to procure the Services. This information is based upon DIBP's understanding of the needs of those other Commonwealth Agencies as at the date of issue of this RFT, but **clause 34.2** applies to the provision of that information.
- 34.6. References to 'DIBP' or 'the Department' in this RFT should be interpreted as also including a reference to the other Commonwealth Agencies that wish to procure the Services (unless the contrary intention appears).

35. Commonwealth Centralised Procurement

- 35.1. Without limiting **clause 32**, Tenderers should note that it is Commonwealth policy to develop a centralised procurement system for the delivery of certain goods and services to Commonwealth departments and Agencies (**WoG Arrangements**), where it can be established that the centralised procurement of those goods and services could deliver savings to the Commonwealth.
- 35.2. The process of identifying such goods and services is ongoing. If the Commonwealth requires some or all of the same goods or services as the Services to be provided under a WoG Arrangement:

- (a) before the Closing Time - in which case DIBP reserves the right to discontinue this RFT process;
- (b) after the Closing Time but before a Contract is entered into with the successful Tenderer - in which case DIBP reserves the right to discontinue this RFT Process and not to proceed to enter into any Contract as a result of the RFT or to or to continue with this RFT Process and, if a Contract is entered into with the successful Tenderer, if any, apply the terms of the Contract dealing with WoG Arrangements; or
- (c) during the period of any Contract entered into as a result of this RFT - in which case DIBP may exercise its rights under the relevant Contract (which includes the right to terminate that arrangement for any reason by giving 30 days' notice to the successful Tenderer), without compensation for loss of potential profits.

36. Applicable Law

- 36.1. The Laws of the Australian Capital Territory apply to this RFT Process

37. Complaints

- 37.1. Any complaints arising out of the RFT Process should be directed to the Contact Officer in writing, clearly identifying the issue of concern and the facts and evidence which support the Tenderer's complaint.

38. Security, Probity, due diligence, financial and Other Checks

- 38.1.1. DIBP reserves the right to perform such security, probity, due diligence and/or financial investigations and procedures as DIBP, in its absolute discretion, may determine are necessary in relation to the Tenderer, its Personnel, Subcontractors or Related Body Corporate or consortium members and their respective officers, employees and subcontractors. The Tenderer agrees to provide at its cost, all reasonable assistance to DIBP in this regard.
- 38.1.2. All contracting, consultant and or service provider personnel who are determined to be IBP Workers are to undergo and obtain:
- (a) an Employment Suitability Clearance (**ESC**); and
 - (b) a Commonwealth Security Clearance (**CSC**) to the appropriate level, before accessing any premises or official or security classified material, or performing any services for DIBP.
- 38.1.3. The average time for an ESC is four (4) weeks and a CSC is six (6) weeks.
- 38.1.4. Any personnel offered by the Tenderer to perform the Services, who are determined to be IBP Workers, are to be made available to DIBP for the period of the Contract (including any extensions), while such personnel remain employed by or contracted to the Tenderer.
- 38.1.5. The security vetting processes are conducted to ensure that an individual is both eligible and suitable to be granted, as well as maintain, a security clearance. A clearance is basically an inquiry into and corroboration of a person's background, character and civic values.
- 38.1.6. ESCs are processed internally by the Department's Employment Suitability Clearance Team which makes a decision whether to grant an ESC. The

Australian Government Security Vetting Agency (**AGSVA**) processes CSCs and makes the decision whether to grant a CSC in accordance with the standards identified in the Australian Government Protective Security Policy Framework (PSPF). To comply with eligibility requirements of the PSPF, security clearance for access to security classified resources must not be provided to anyone who is not an Australian citizen.

- 38.1.7. DIBP or any third party authorised by DIBP, may perform probity and financial investigations and procedures as DIBP determines are necessary in relation to any Tenderer, its Personnel, Subcontractors or related entities including partners and their officers, employees and subcontractors.
- 38.1.8. Tenderers should promptly provide DIBP with such information or documentation that DIBP requires in order to undertake such investigations. DIBP may exclude a Tender from further consideration if the Tenderer does not promptly provide all reasonable assistance to DIBP in this regard, or based on the outcomes of the investigations or procedures. In agreeing to supply relevant financial information or statements, the Tenderer also agrees that the information supplied represents a true and fair statement of the affairs of the Tenderer.
- 38.1.9. Once a person is determined to be an IBP Worker, the person will be required to comply with the *Australian Border Force Act 2015* (Cth), and any directions issued to the relevant IBP Workers.
- 38.1.10. Directions and policies issued pursuant to the *Australian Border Force Act 2015* (Cth) with which IBP Workers are required to comply at the date of this RFT can be viewed at <https://www.border.gov.au/about/access-accountability/integrity>.

39. DIBP Information

- 39.1. Tenderers must not, and must ensure that Tenderer Personnel and its Subcontractors do not, either directly or indirectly record, divulge or communicate to any person any:
 - (a) Confidential Information concerning the affairs of DIBP, the Commonwealth or a third party acquired or obtained from DIBP; or
 - (b) document, data or information provided by DIBP in the course of the Tenderer preparing or amending a Tender and which DIBP indicates to Tenderers is confidential or which Tenderers know or ought reasonably to know is confidential.
- 39.2. DIBP information in the possession of the Tenderer must be stored in accordance with the minimum standards for that type of information, as defined in the PSPF. By submitting a Tender, Tenderers agree to grant DIBP the right for it, or its agent, to inspect premises to ensure compliance with storage requirements.
- 39.3. DIBP 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), and all copies of such information made by Tenderers, be:
 - (a) returned to DIBP - in which case Tenderers will be required to promptly return all such information to the address identified by DIBP; or

(b) destroyed by Tenderers - in which case Tenderers will be required to promptly destroy all such information and provide DIBP with written certification that the information has been destroyed.

39.4. DIBP may exclude from further consideration any Tender lodged by a Tenderer who has engaged in any behaviour contrary to this **clause 39**.

40. Compliance with Commonwealth policies

The Australian National Audit Office

40.1. The attention of Tenderers is drawn to the *Auditor-General Act 1997* (Cth), which provides the Auditor-General or an authorised person with a right to have, at all reasonable times, access to information, documents and records in the possession of a Commonwealth Agency.

40.2. Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Auditor-General Act 1997* (Cth) on its participation in this RFT Process and any subsequent Contract.

40.3. **Attachment D** (Draft Contract) contains a right of access by the Auditor-General, or an authorised person, to information, documents, records and DIBP assets, including those on the Tenderer's premises, which are related to the relevant Contract.

Privacy Legislation

40.4. Tenderers are advised that it is Commonwealth policy to ensure that there is no loss of privacy protection when a Commonwealth entity contracts for the delivery of the Services.

40.5. The *Privacy Act 1988* (Cth) establishes a national scheme providing for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by public and private sector organisations.

40.6. Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Privacy Act 1988* (Cth) on their participation in this RFT Process and any subsequent Contract.

40.7. **Attachment D** (Draft Contract) requires the Contractor to comply with the *Privacy Act 1988* (Cth). Tenderers selected as a result of this RFT Process will also need to agree to impose those same obligations on any Subcontractor engaged by the Tenderer.

Freedom of Information

40.8. The *Freedom of Information Act 1982* (Cth) gives certain rights to the community to access information in the possession of the Commonwealth, which may include any Tender submitted and any Contract resulting from this RFT Process and related documents. Access is only limited by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by DIBP and public authorities.

- 40.9. Tenderers should obtain, and will be deemed to have obtained, their own independent, professional advice on the impact of this legislation on their participation in this RFT Process.

Workplace Gender Equality

- 40.10. Tenderers are required to comply with their obligations under the *Workplace Gender Equality Act 2012* (Cth) and must not enter into any subcontracting arrangements with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the Act.
- 40.11. If a Tenderer, or any other party that the Tenderer proposes to deliver the Services, is currently named as non-compliant under the *Workplace Gender Equality Act 2012* (Cth), this is to be disclosed in its Tender. In this case, Tenderers will be required to obtain a letter of compliance from the Workplace Gender Equality Agency to be eligible for Commonwealth business. The letter of compliance may be attached to a Tender or provided separately prior to the Closing Time.

Disability Discrimination

- 40.12. Tenderers are required to comply with the *Disability Discrimination Act 1992* (Cth) in accordance with the National Disability Strategy 2010-2020.

Prohibition of Illegal Workers

- 40.13. Tenderers should note that it is DIBP policy not to contract with providers engaging Illegal Workers and the Tenderer Declaration contains a statement from the Tenderer confirming that it will comply with this policy.

Anti-Terrorism Measures

- 40.14. The Tenderer and any nominated Subcontractors proposed in the Tender must not at the Closing Time be listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth). This is a Condition for Participation. These Laws require any person who holds assets or funds belonging to a person or organisation on the list of persons and entities designated as terrorists to immediately freeze those assets. It is an offence to make any funds or assets available to a person or organisation on the list.
- 40.15. A consolidated list of such persons, entities and associated assets is maintained by the Department of Foreign Affairs and Trade under the *Charter of the United Nations (Dealing with Assets) Regulations 2008*. DIBP will not enter into a Contract with a person or organisation on the list referred to in **clause 40.14**.
- 40.16. The successful Tenderer (if any) will be required to comply with all applicable Laws dealing with the supply and/or export of goods, services and information to foreign nationals or institutions including under the *Customs Act 1901* (Cth) and the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (Cth).

Trade Sanctions

- 40.16.1. Tenderers' attention is drawn to the United Nations Security Council (**UNSC**) sanctions regimes under the *Charter of the United Nations Act 1945* (Cth) and

the Australian autonomous sanctions regimes under the *Autonomous Sanctions Act 2011* (Cth).

- 40.16.2. Contractors to the Australian Government must not undertake an activity that is in breach of a UNSC sanction regime or Australian autonomous sanction regime in respect of a particular country, including:
- (a) making a sanctioned supply of export sanctioned goods;
 - (b) making a sanctioned import of import sanctioned goods;
 - (c) providing a sanctioned service;
 - (d) engaging in a sanctioned commercial activity;
 - (e) dealing with a designated person or entity;
 - (f) using or dealing with a controlled asset; or
 - (g) the entry into or transit through Australia of a designated person or a declared person.

Further information is available at <http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>.

Anti-money laundering

- 40.17. The successful Tenderer (if any) will be required to comply with any obligations applicable to it contained in the legislation arising from the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).
- 40.18. DIBP will not enter into any Contract with a person or organisation on the list, and Tenderers are required to declare that they are not listed (see the Tenderer Declaration).

Unpaid Employee Entitlements

- 40.19. The Tenderer may not have a judicial decision against it relating to employee entitlements (not including decisions which are under appeal), in respect of which the Tenderer has not paid the claim. Tenderers are required to declare that they have no such unsettled judgements (see the Tenderer Declaration set out in **Form 2 of Attachment F** (Tenderer Response Forms)).

Ombudsman

- 40.20. Tenderers' attention is drawn to the *Ombudsman Act 1976* (Cth), which provides rights of access to places occupied by Commonwealth contractors to conduct investigations at those places.
- 40.21. Tenderers should obtain, and will be deemed to have obtained, their own independent, professional advice on the impact of this legislation on their participation in this RFT Process.
- 40.22. **Attachment D** (Draft Contract) includes a right of access by the Ombudsman to the Tenderer's premises and/or relevant documents.

Competitive Neutrality

- 40.23. Competitive neutrality requires that Government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership.
- 40.24. Tenderers from the public sector which are a government business enterprise should identify themselves as such and demonstrate in the pricing of their Tender that the requirements of competitive neutrality have been met, including payment of relevant taxes and charges, rates of return and costs of funds. Compliance with the requirements of competitive neutrality may be tested by DIBP.

Fair Work Act 2009 (Cth)

- 40.25. Tenderers are required to comply with all relevant workplace relations Laws, including:
- (a) the *Fair Work Act 2009* (Cth) or any applicable workplace relations Laws;
 - (b) work health and safety Laws; and
 - (c) worker's compensation Laws.

Work health and safety

- 40.26. DIBP has obligations under the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) in relation to the maintenance of a safe workplace and safe systems of work. DIBP acts in strict compliance with its obligations.
- 40.27. The successful Tenderer (if any) will be required to act in such a way, so as not, by action or omission, to place DIBP in breach of its obligations under the WHS Act. The Tenderer should be aware that it may also have its own obligations under the WHS Act in relation to these matters with which strict compliance will be required.

Fraud Control

- 40.28. Tenderers' attention is drawn to the Australian Government's position on fraud control, set out in the Commonwealth Fraud Control Guidelines (available at: <http://www.ag.gov.au/CrimeAndCorruption/FraudControl/Pages/FraudControlFramework.aspx>).

Subcontracting

- 40.29. Where Subcontractors are specified in the Tender, the Tenderer is required to identify:
- (a) the Subcontractor's compliance or otherwise with the *Workplace Gender Equality Act 2012* (Cth); and
 - (b) whether the Subcontractor complies with the *Fair Work Act 2009* (Cth).
- 40.30. Tenderers' attention is drawn to the requirements in **Attachment F** (Tenderer Response Forms).

Archiving

- 40.31. Tenderers should be familiar with the requirements of record keeping in an outsourced environment, particularly the National Archives of Australia publication "Records Issues for Outsourcing". Copies can be downloaded from: http://www.naa.gov.au/Images/GDA25_tcm16-47736.pdf

Environmental policy and procurement

- 40.32. The Commonwealth aims to improve the implementation of ecologically sustainable development (**ESD**) within its Agencies.
- 40.33. In support of this aim, DIBP is committed to fostering the sustainable use of the Earth's resources and will implement and maintain an environmental management system to ISO14001, with the following key focus areas:
- (a) compliance with all relevant environmental legislation, regulations, policies and other initiatives to which it subscribes;
 - (b) integrating environmental management into business decision making at all levels;
 - (c) reducing cost through better resource usage and waste management;
 - (d) setting objectives and targets for continuous improvement;
 - (e) monitoring, reporting and reviewing achievements;
 - (f) exploring best practice and innovative environmental management approaches to the use of technology, property and related resources; and
 - (g) building an environmentally aware business culture.
- 40.34. See also the National Waste Policy and the Australian Packaging Covenant, copies of which are available at the Department of Environment website: <http://www.environment.gov.au/>.
- 40.35. DIBP's procurement activities are a key means of implementing its environmental policy.

Digital Service Standard

- 40.36. Tenderers' attention is drawn to the Digital Service Standard for all Services which are within the scope of the Digital Service Standard, as detailed by the Australian Government Digital Transformation Agency.

Web Content Accessibility Guidelines Version 2.0

- 40.37. The Australian Government is committed to improved web accessibility. The Tenderer will be required to ensure all online services are compliant with the latest version of the WCAG 2.0 available at <http://www.w3.org/TR/WCAG20/>.

Lobbying Code of Conduct

- 40.38. The Lobbying Code of Conduct is intended to promote trust in the integrity of government processes and ensure that contact between Lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. Lobbyists and Government representatives are expected to comply with the requirements of the Lobbying Code of Conduct (the "Lobbying Code" in accordance with their spirit, intention and purpose. The Lobbying Code requires that Government representatives shall not knowingly be a party to a lobbying activity where the Lobbyist is not registered on the Prime Minister & Cabinet's Register of Lobbyists. A copy of the Lobbying Code is available at: http://lobbyists.pmc.gov.au/conduct_code.cfm.
- 40.39. "Government representative" for the purposes of the Lobbying Code includes a person engaged as contractor or consultant by an Australian Government Agency whose staff are employed under the *Public Service Act 1999* (Cth).
- 40.40. Each Tenderer and its Subcontractors must not engage in, or procure or encourage others to engage in, activity which would result in a breach of the Lobbying Code or the Australian Public Service Commission (**APSC**) Circular 2008/4, Services relating to the Lobbying Code of Conduct and Post Separation Contact with Government.

Indigenous Procurement Policy

- 40.41. Tenderers should note that the Indigenous Procurement Policy applies or may apply to this RFT Process. More information on the Indigenous Procurement Policy can be found at <https://www.dpmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>.
- 40.42. In particular, Tenderers should note the purpose of the Indigenous Procurement Policy is to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see Indigenous Procurement Policy for further information).
- 40.43. In its Tender, each Tenderer is requested to detail how it will increase its:
- (a) purchasing from Indigenous enterprises (being an organisation that is 50 per cent or more Indigenous owned that is operating a business); and
 - (b) employment of Indigenous Australians,
- 40.44. Purchases from an Indigenous enterprise may be in the form of engagement of an Indigenous enterprise as a subcontractor, and / or use of Indigenous suppliers in the Tenderer's supply chain.

PART 3 - EVALUATION OF TENDERS

41. The Evaluation Process

Step 1 – Receipt and Registration of Tenders

- 41.1. As soon as practicable after the Closing Time, all Tenders will be downloaded from the relevant section of AusTender.
- 41.2. All Tenders received before the Closing Time will be registered on a procurement register.
- 41.3. Any Tenders received after the Closing Time and any disputes or issues regarding receipt of Tenders will be managed in accordance with **Part 2** of this RFT.

Step 2 – Initial Screening (against the Conditions of Participation and the Minimum Content and Format Requirements)

- 41.4. The Evaluation Committee (or other nominated DIBP personnel) will screen all Tenders to identify any that:
 - (a) fail to comply with any Conditions for Participation as set out in **Part 1** (other than Condition for Participation 2, which will be assessed as part of Step 4);
 - (b) fail to comply with any Minimum Content and Format Requirements as set out in **Part 1**;
 - (c) contain unintentional errors of form (see **clause 18**); or
 - (d) are otherwise incomplete or non-compliant with the RFT.
- 41.5. The Evaluation Committee will exclude any Tender from further consideration which has not complied with all Conditions for Participation as set out in **Part 1** (other than Condition for Participation 2, which will be assessed as part of Step 4).
- 41.6. Subject to **clause 18** of this RFT (Unintentional Errors of Form), the Evaluation Committee will exclude any Tenders from further consideration that have not complied with all Minimum Content and Format requirements as set out in **Part 1**. DIBP expects that the Tender, including all attachments and supporting material, will be written in English and in any event takes no responsibility to translate or convert any response for the purposes of evaluating, scoring or otherwise determining whether a Tender is complete or competitive.
- 41.7. The Evaluation Committee may also exclude a Tender from further consideration where, in the Evaluation Committee's reasonable opinion, the Tender is:
 - (a) incomplete or so deficient (e.g. it fails to provide a Pricing schedule, address technical details, or demonstrate a reasonable understanding of the Services or fails to provide relevant, complete and accurate information); or
 - (b) otherwise so clearly non-competitive,

that it is likely to be evaluated so as to represent no value for money for the Commonwealth. The Evaluation Committee may, however, decide to consider these Tenders and seek further clarification from the Tenderer if it believes that this is appropriate.

- 41.8. Screening is an ongoing process and the Evaluation Committee may decide during any stage of the Evaluation Process that a Tender falls within the categories described in this step and should therefore be excluded from further consideration.

Step 3 - Evaluation against the Technical Evaluation Criteria

- 41.9. For each Tenderer that passes Steps 1 and 2 above, the Evaluation Committee will consider all relevant information for each Technical Evaluation Criterion, as set out at **clause 42**, provided in each Tender and conduct an analysis against each Technical Evaluation Criterion.
- 41.10. Tenderers should note that in evaluating a Tenderer's response to each Evaluation Criterion, the Evaluation Committee may:
- (a) use any material included in a Tender in the evaluation of any Evaluation Criteria, including using material provide in response to one (1) Evaluation Criterion in the evaluation of other Evaluation Criteria; and
 - (b) take into account any information received from the Tenderer in accordance with **clauses 16** and this **clause 41.10**.
- 41.11. Tenderers should provide enough detail in their Tender against each Evaluation Criterion to ensure that the Evaluation Committee has a clear understanding of their offer and that all requirements have been addressed. Tenderers are advised that unclear or contradictory statements may result in a low scoring assessment.
- 41.12. After reviewing the Tenders, the Evaluation Committee (or other nominated DIBP Personnel) may, in its sole and absolute discretion:
- (a) visit Tenderers' (including Subcontractors') sites and facilities;
 - (b) trial the Tenderers' products or equipment it proposes to use in the provision of the Services;
 - (c) test the Tenderers' products or equipment it proposes to use in the provision of the Services in a DIBP environment;
 - (d) ask Tenderers to undertake presentations or demonstrations;
 - (e) have discussions or interviews with Tenderers in order to seek clarification of their Tenders;
 - (f) seek written clarification or information from any Tenderer on various aspects of their Tenders, whether or not similar information has been sought from other Tenderers;

- (g) ask Tenderers to provide further information to demonstrate their financial viability and commercial viability and the financial viability and commercial viability of Subcontractors;
- (h) consider information received from sources other than the Tenderer, including DIBP, ASIC, company searches/reports and Agencies;
- (i) enter into negotiations with any or all Tenderers;
- (j) obtain information regarding the capacity and capability of a Tenderer from referees nominated by the Tenderer or any other person contacted by DIBP, and/or undertake visits to, customers or Subcontractors of Tenderers, whether or not the customers are provided as referees by a Tenderer; and
- (k) conduct independent enquiries about any matter that may be relevant to the evaluation of a Tender including security, financial and probity checks in relation to the Tenderer, its Related Bodies Corporate, Personnel, Subcontractors and any related entities or their personnel and use the information obtained from those inquiries in its evaluation (and the Evaluation Committee may decide to exclude a Tender from further consideration if the Tenderer does not provide, at its cost, all reasonable assistance to Evaluation Committee in relation to such enquiries if requested by DIBP).

41.13. DIBP may choose to undertake the activities set out in **clause 41.12** in relation to some Tenderers only. Presentations, interviews, demonstrations and site visits may be subject to additional terms and conditions that are advised by DIBP to Tenderers who have been invited to participate in each activity.

41.14. Any costs incurred by the Tenderer in complying with clauses 41.12 or 41.13 will be borne by the Tenderer.

41.15. Following the conclusion of any site visits, presentations and/or referee checks and obtaining of further independent enquiries, the Evaluation Committee will, in light of the further information received, review and where applicable may revise scores for the Technical Evaluation Criteria set out at **clause 42**.

41.16. At any time during this Step 3 or after its completion, the Evaluation Committee may shortlist Tenders for progression to further steps of the Evaluation Process. The Evaluation Committee in its sole and absolute discretion will determine the number of Tenders on any shortlist.

Step 4 – Pricing Evaluation

41.17. This Step 4 may be conducted after or concurrently with the evaluation process described in Step 2 and Step 3.

41.17.1. If at any time during the evaluation, including after this Step 4 has commenced, a Tender has been excluded then this Step 4 may not be conducted on or may be ceased for (as applicable) that Tender.

41.18. The Evaluation Committee will undertake an assessment of the prices (i.e. Service Charges ^{s47C}) contained in Tenders. The Evaluation Committee may seek assistance from internal and/or external financial advisors if required.

- 41.19. In the evaluation process, DIBP may, in its sole and absolute discretion, make certain adjustments to the prices, including adjustments to account for the following matters, which may need balancing in order to establish a common basis for the comparison of Tenders, including (without limitation):
- (a) prices as per Pricing Schedules in **Form 5 of Attachment F** (Tenderer Response Forms);
 - (b) pricing flexibility;
 - (c) any other costs or discounts which form part of the Tenderer's offer;
 - (d) normalised and discounted cash flow;
 - (e) any assumptions or caveats attaching to the proposed prices;
 - (f) any alternative proposals or financial incentives offered by the Tenderer;
 - (g) Implementation costs;
 - (h) any risk relating to the prices;
 - (i) Transition out costs;
 - (j) cost of administering the Contract;
 - (k) costs associated with DIBP administering the Contract;
 - (l) whole of life costs and benefits; and
 - (m) other costs, if any, or financial impacts on DIBP that may arise from appointing a particular Tenderer.
- 41.20. DIBP may also undertake a sensitivity analysis including scenario modelling in evaluating prices.
- 41.21. Discounted cash flow may be used to estimate the net present value of amounts in future years of the Contract Period of the Contract, with all assumptions on costs, interest rates and related factors to be determined in the absolute discretion of DIBP.
- 41.22. In determining value for money, DIBP is obliged to satisfy itself that proposed prices offered are reasonable. The Tenderer agrees to provide access to such information as determined by DIBP in order to evaluate the reasonableness of its proposed prices.
- 41.23. If no assumptions or other caveats on pricing are included in the Tender, the Tenderer will be deemed to have represented that no assumptions or other caveats apply.
- 41.24. At any time during this Step 4 or after its completion, the Evaluation Committee may shortlist Tenders for progression to further steps of the Evaluation Process. The Evaluation Committee in its absolute discretion will determine the number of Tenders on any shortlist.
- 41.25. DIBP reserves the right, during the evaluation process, to ask all Tenderers (or, if Tenderers have been shortlisted, the shortlisted Tenderers) to submit new or revised pricing based on an alternative methodology.

- 41.26. DIBP also reserves the right to seek clarification on any pricing matters and to seek a Best and Final Offer in respect of pricing from each Tenderer (or, if Tenderers have been short-listed, shortlisted Tenderers) if it is deemed necessary to determine a clear value for money outcome for the Commonwealth.
- 41.27. At this Step 4, DIBP will undertake an assessment of each Tenderer's financial and commercial viability to perform the Services, which is a Condition for Participation. Any Tenderer that is considered to not be financially or commercially viable to perform the Services will be excluded from further consideration in accordance with **clause 19.1**.

Step 5 - Value for Money (including Risk Assessment and Assessment of Economic Benefit to Australian Economy)

- 41.28. DIBP's assessment of value for money in respect of each Tender admitted into this Step 5 will take into account the risk posed by the Tenderer's completed Statement of Non-Compliance (see **Form 9** in **Attachment F** (Tenderer Response Forms)) and may, without limitation, take into account:
- (a) the Tenderer's draft Security Risk Management Plan (see **Form 14** in **Attachment F** (Tenderer Response Forms));
 - (b) the Tenderer's information provided in response to **Attachment F** (Tenderer Response Forms) of this RFT;
 - (c) ability to meet the requirements and provide the Services set out in **Attachment B** (Statement of Requirement);
 - (d) the Tenderer's degree of compliance with this RFT including **Attachment D** (Draft Agreement), including:
 - i. the anticipated degree of difficulty in contracting with the Tenderer;
 - ii. the risk to DIBP of any suggested amendments to the **Attachment D** (Draft Agreement) that the Tenderer would like DIBP to consider; and the assessed risk to the negotiation of a Agreement acceptable to DIBP;
 - (e) the Tenderer's proposed contracting structure;
 - (f) the Tenderer's proposed Subcontractors (including Key Subcontractors) to fulfil the obligations under **Attachment D** (Draft Agreement) as set out in **Form 1** of **Attachment F** (Tenderer Response Forms);
 - (g) the Tenderer's insurances for the purposes of managing the indemnities and liabilities under **Attachment D** (Draft Agreement);
 - (h) the Tenderer's identification of risks associated with the performance of the Services during the Contract Period and appropriate management of strategies;
 - (i) risks identified as a result of the assessment of the Tenderer's or Subcontractor's financial and commercial viability (see **Forms 7** and **8** in **Attachment F** (Tenderer Response Forms));
 - (j) risks identified as a result of the assessment of the Tender against the Evaluation Criteria at **clause 42**;

- (k) risks identified from sources including (without limitation) from DIBP, ASIC company searches/reports and Agencies;
 - (l) risks identified from any proposed confidential information;
 - (m) risks identified as part of conducting the overall risk assessment; and
 - (n) other risks identified during the evaluation of the Tender.
- 41.29. The value for money assessment will also take into account the economic benefit of each Tender admitted into this Step 5 to the Australian economy.
- 41.30. The Evaluation Committee may shortlist Tenders following completion of its assessment of risk and assessment of economic benefit to the Australian economy, for further progression in the Evaluation Process. The Evaluation Committee in its absolute discretion will determine the number of Tenders on any shortlist.
- 41.31. The Evaluation Committee will determine value for money by comparing the outcomes of each previous step for each Tender.
- 41.32. The Evaluation Committee will determine overall best value for money represented by each Tender.
- 41.33. Value for money is a comprehensive assessment that takes into account the following:
- (a) evaluation against the Technical Evaluation Criteria under Step 3;
 - (b) pricing evaluation under Step 4; and
 - (c) evaluation of overall risk and economic benefit to the Australian economy under this Step 5.
- 41.34. DIBP will also undertake consideration of affordability of the Tenders.
- 41.35. At the end of Step 5, the Tenderer with the highest overall ranking and representing overall best value for money and which is affordable will be identified as the preferred Tenderer (if any).

Negotiations

- 41.36. Negotiations may be undertaken with one (1) or more Tenderers in the sole and absolute discretion of DIBP.
- 41.37. During the negotiation phase of this RFT Process, DIBP may engage in detailed discussions and negotiations, including parallel negotiations, with the goal of maximising the benefits, as measured using the Evaluation Criteria. As part of this process, those Tenderers participating in the negotiation phase may be asked to improve any or all aspects of their Tender. DIBP's intention is that it will select preferred Tenderer(s) (if any) after all material issues have been resolved.
- 41.38. Without limiting **clause 41.26**, DIBP may seek Best and Final Offers from Tenderers participating in the negotiation phase of this RFT Process.

41.39. Without limiting its other rights under this RFT, in the event that DIBP concludes that during negotiations (or at any other stage during the RFT Process) a Tenderer has retracted, or attempts to retract, any part of its tendered offer, DIBP, in its sole and absolute discretion, reserves the right to:

- (a) disqualify that Tenderer's Tender;
- (b) terminate this RFT;
- (c) re-enter negotiations or parallel negotiations with other Tenderers; or
- (d) exercise any other right reserved to DIBP under Law or elsewhere in this RFT.

41.40. At the end of negotiations, DIBP will re-evaluate its value for money decision and determine which is the preferred Tenderer.

42. Evaluation Criteria

42.1. Each Tender:

- (a) admitted into Step 3 – Evaluation against the Technical Evaluation Criteria will be evaluated against the Technical Evaluation Criteria set out in this clause 42;
- (b) admitted into Step 4 – Pricing Evaluation will be evaluated against Criterion 1 of the Non-Technical Evaluation Criteria set out in this clause 42; and
- (c) admitted into Step 5 – Value for Money (including Risk Assessment and Assessment of Economic Benefit to Australian Economy) will be evaluated against Criterion 2 of the Non-Technical Evaluation Criteria set out in this clause 42,

in order to determine if the Tender offers overall best value for money consistent with the CPRs and other Commonwealth purchasing policies.

42.2. If additional Evaluation Criteria are intended to be applied, in addition to the Evaluation Criteria set out in this **clause 42**, for purposes of evaluation, DIBP will notify Tenderers in accordance with **clause 15**.

Technical Evaluation Criteria

42.3. Tenders will be evaluated against the following Technical Evaluation Criteria:

Technical Evaluation Criteria	Weighting
Criterion 1: Technical Capability	65%
General: Ability to Innovate Ability to Meet Policy Ability to Deliver the Services Ability to Meet Reporting Requirements	15%
Business Requirements:	70%

Technical Evaluation Criteria	Weighting
Ability to Meet the Operational Requirements Ability to Meet the Future Requirements s47C	
Draft Plans: Quality of Draft Plans Tendered	15%
Criterion 2: Implementation Approach	20%
Transition	75%
Supplier Personnel and Clearances	25%
Criterion 3: Capacity and Organisational Capability	7.5%
Capacity	60%
Experience	40%
Criterion 4: Continuous Improvement	7.5%
Continuous Improvement	50%
Service Levels	50%

- 42.4. A description of relative importance (criticality) for:
- (a) each of the Technical Evaluation Criteria; and
 - (b) the “Business Requirements” within Evaluation Criterion 1,
- is set out in Attachment F (Tenderer Response Forms) using the following table:

Criticality	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

A failure to adequately demonstrate how a Tender will meet an ‘Essential’ Technical Evaluation Criterion or business requirement may result in the Department considering the Tender to be incomplete or so deficient or otherwise so clearly non-competitive that it is likely to represent no value to the Commonwealth in accordance with clause 41.7.

Non-Technical Criteria

42.5. Tenderers will also be evaluated against the following Non-Technical Evaluation Criteria (which are unweighted):

Non-Technical Evaluation Criterion/ Non-Technical Evaluation Sub-criterion
Criterion 1: Pricing
Criterion 2: Risk

Attachment A - Glossary

[See separate document]

Attachment B - Statement of Requirement

[See separate document]

Attachment C - Service Levels

[See separate document]

Attachment D - Draft Contract

[See separate document]

Attachment E - Industry Briefing and Registration Form and Confidentiality Deed Poll

[See separate document]

Attachment F - Tenderer Response Forms

[See separate document]

Attachment A - Glossary

Words and phrases used in this RFT have the following meanings unless otherwise stated:

Term	Definition
"Australian Border Force Act" or "ABF Act"	means the <i>Australian Border Force Act 2015</i> (Cth).
"Acceptance Criteria"	means criteria approved by the Department, by which a service will be judged acceptable or not.
"Access Point"	means the mechanism through which the Department delivers a service using channels.
"Account Executive/Principal"	means the Supplier Personnel who is responsible for the Supplier's delivery and reputation nationally as identified in Schedule 7 (Governance).
"Acquired Rights Directive"	means the Acquired Rights Directive 2001/23/EC, any legislation implementing such Directive and any equivalent legislation which operates automatically to transfer the employment contracts of employees.
s47C	
"Advice"	means 'immigration assistance' as defined in the Migration Act.
"Affiliate"	means, with respect to any entity, any other entity Controlling, Controlled by or under common Control with such entity.
"Agency" and "Agency of the Commonwealth"	means: <ul style="list-style-type: none"> a) a body corporate or an unincorporated body established or constituted for a public purpose by Commonwealth legislation, or an instrument made under that legislation (including a local authority); b) a body established by the Governor General or by a Minister of State of the Commonwealth, including departments; or c) an incorporated company over which the Commonwealth exercises control.
"Agreement"	means this Deed, including the Terms and Conditions and all Schedules, Annexes and Appendices, together with any other documents expressly incorporated by reference.
"Agreement Change"	means any amendment to the Agreement including: a change, reduction or addition to the Services Requirements; an amendment to the Performance Standards or any other part of the Agreement; and the introduction of a New Service within the scope of the Agreement, but excluding a Solution Change.

Term	Definition
"Agreement Management Log"	means the log for managing issues related to management of the Agreement that arises in the course of the Term, as set out in Schedule 11 (Reporting).
"Agreement Year"	means a period of one year measured from the end of the Transition In Period and annually thereafter.
"AGSVA"	means the Australian Government Security Vetting Agency, the agency that administers security clearances on behalf of the Department.
"Alternative Dispute Resolution"	has the meaning set out in Section 7.3 of Schedule 7 (Governance).
"ANAO"	means the Australian National Audit Office.
"Annex"	means an annex to a Schedule.
"Annual Review"	has the meaning set out in Clause 5 of the Terms and Conditions .
"API"	means an Application Programming Interface, a mechanism for exposing the data held in one database or application to another application.
"Applicable Requirements"	means the policies and Laws referenced at Schedule 13 – (Applicable Requirements).
"ASC"	means the Americas Service Centre.
"Assets"	means any information, Material, equipment or Software and any other tangible assets (excluding real property), either owned or leased by the Supplier or any Material Subcontractor and used directly in the fulfilment of any of the Services Requirements.
"Audit"	has the meaning set out in the Agreement.
"Audit Records"	has the meaning set out in the Agreement.
"Audit Report"	has the meaning set out in the Agreement.
"Audit Rights"	means the Department's rights to carry out Audits as set in the Agreement.
"AusTender"	means the Commonwealth of Australia's business opportunities website located at https://www.tenders.gov.au from which Tenderers download Tender documentation electronically, receive email notification if an addendum to the RFT is issued and lodge Tenders.
"Australian Privacy Principle" or "APP"	has the same meaning as in the Privacy Act.
"Authorised Person"	has the meaning set out in Section 7.1 of Schedule 3 (Security).
"Authorised Personnel"	means Supplier Personnel authorised in accordance with Section 7.1 of Schedule 3 (Security).

Term	Definition
"Business Continuity Plan"	means the Supplier's Business Continuity Plan developed in accordance with Schedule 2 (Business Requirements and Supplier's Solution).
"Business Day"	Means: a) for the purposes of the Request for Tender, a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory; b) in relation to a specified Site, any day on which that Site is staffed and operational; and c) for all other purposes, any day that is not a Saturday or Sunday or a public holiday or bank holiday in the Australian Capital Territory.
"Business Requirements"	means a subset of the Department's Operational Requirements for services as set out in Schedule 2 (Business Requirements and Supplier's Solution), Schedule 3 (Security), Schedule 6 (Service Levels and Service Credits), and Schedule 10 (Facilities).
"CCN"	means the form attached at Annex 8-1 to Schedule 8 (Change Control) which is used to initiate, evaluate, agree and document each Agreement Change.
"Central Issue Log"	means the log managed by the Supplier in relation to central issues, including the mitigation and treatment decisions, and agreed resolution activity as set out in Schedule 11 (Reporting).
"Certified QMS"	has the meaning set out in Clause 6.8 of the Terms and Conditions .
"Change"	means an Agreement Change or the introduction of a New Service.
"Change Control Procedure"	means the procedure for agreeing and implementing a Change set out in Schedule 8 (Change Control).
"Change in Law"	means the coming into effect or repeal (without re-enactment or consolidation) of any Law, or any amendment or variation to any Law, or any judgment of a relevant court of law which changes binding precedent, in each case after the Effective Date.

Term	Definition
"Change of Control"	Means in respect of the Supplier: a) subject to paragraph c) of this definition, the person who controls, or group of persons who, acting together, Control the Supplier; b) if the Supplier is a subsidiary, the Supplier ceases to be a subsidiary of the body corporate which is its holding company as at the Effective Date; c) a change or alteration occurring in the corporate structure of the Supplier which results in a person (including a company) other than the shareholders of the Supplier at the Effective Date: i) controlling the composition of the board of directors; ii) controlling the voting power of the board of directors or any class of shareholders or both; or iii) holding more than 20 per cent of the issued share capital (either beneficially or otherwise); or d) the Supplier disposes of an asset or assets (whether in a single transaction or a series of related or unrelated transactions) which, in the Department's reasonable opinion as the case may be, would adversely affect the Supplier's ability to provide the Services.
"Change Request"	means a request for a Change made by either party in the form of a CCN, in accordance with the Change Control Procedure.
"Channel"	means a medium through which a Service is delivered to a user.
"Citizenship"	means Australian Citizenship as defined in the <i>Australian Citizenship Act 2007</i> (Cth).
"Claim"	means any claim, demand, proceeding, suit or other action.
"Client"	means a recipient of the Department's Client Enquiry Services, whether those services are provided directly by the Department or by arrangement with another party or parties.
"Client Data"	means information about any Client, either provided by the Client during the Enquiry Process or already held by the Department or the Supplier.
"Client Enquiry" or "Client Enquiries"	means an attempt by a Client to contact or interact with the Department for the purposes of receiving the Client Enquiry Services or the actual contact or interaction as a result of that attempt.
"Client Enquiry Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in in Schedule 2 (Business Requirements and Supplier's Solution).

Term	Definition
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"Client Lead"	means the Supplier Personnel who is responsible for all the Department business as identified in Schedule 7 (Governance).
"Client Satisfaction Survey"	has the meaning set out in Section 3.3.2 of Schedule 6 (Service Levels and Service Credits).
"Closing Time"	means the closing date and time for submission of Tenders, as set out in the RFT Details.
"Commercially Available Off The Shelf Software" or "COTS Software"	means standardised software which is available in the open market, is not intended to be customised or enhanced and is made available on standard licence terms which are non-negotiable.
"Commercially Reasonable Efforts"	means taking such steps and performing them in such a way as a well-managed organisation would undertake with the aim of achieving a particular desired result for its own benefit, assuming such an organisation was acting in a commercial, prudent and reasonable manner.
"Commonwealth"	means the Commonwealth of Australia.
"Commonwealth Procurement Rules"	means the Commonwealth Procurement Rules issued by the Department of Finance under section 101 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
"Communication Plan"	means the communications plan agreed in accordance with Schedule 4 (Transition Management).
"Competitor"	means a service provider that provides or delivers the business of call centre services or client handling services which are identical or near identical to the Services.
"Completion Date"	means the date listed as part of Suppliers Transition In Plan and commitments as part of Schedule 4 (Transition Management) for the respective activities to be completed by.
"Condition for Participation"	means the mandatory conditions for participation (if any) set out in the RFT Details.

Term	Definition
"Confidential Information"	<p>in relation to a party, means information that is by its nature confidential; and:</p> <p>a) is designated by a party as confidential; and</p> <p>b) the receiving party knows or ought reasonably to know is confidential,</p> <p>and includes the information described in Schedule 16 (Confidential Information) but does not include information which is or becomes public knowledge other than by breach of the Agreement or any other confidentiality obligations or is independently developed without reference to the other party's Confidential Information.</p>
"Conflict of Interest"	<p>means a conflict (or potential conflict) between the interest of the Supplier, a Supplier Subcontractor and/or a Supplier Personnel and interests of the Department or the obligations and duties owed to the Department under the Agreement such that a reasonable person having regard to the facts would reasonably regard as so significant and particular that it is likely to prejudice the ability of the Supplier, the Supplier Subcontractor or the Supplier's Personnel to perform the those obligations and duties in an impartial manner.</p>
"Contact Officer"	<p>means the person specified as the Contact Officer for the Department in the RFT Details.</p>
"Contract Delivery Manual"	<p>means the manual the Supplier must provide in accordance with Schedule 2 (Business Requirements and Supplier's Solution).</p>
"Contract Manager"	<p>means the person at the time holding, occupying or performing the duties of contract manager of the Department or any substitute notified to the Supplier by the Department.</p>
"Control"	<p>has the same meaning as in Section 50AA of the Corporations Act, i.e. an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.</p>
"Corporations Act"	<p>means the <i>Corporations Act 2001</i> (Cth).</p>
"Cost Compensation Event"	<p>has the meaning set out in Section 2.2 of Annex 8-3 to Schedule 8 (Change Control).</p>
"Cost Element Spreadsheet"	<p>means the spreadsheet containing the cost elements comprising the ^{s47C} Services Charges.</p>
"Country"	<p>means a country in which a Service Centre is used to provide Services to the Department.</p>
"Default"	<p>means, in relation to either party (including its employees, agents and subcontractors), any breach of the obligations under the Agreement of that party (including fundamental breach or breach of a fundamental term) or failure by that party to perform such an obligation or any negligent or criminal act or omission of that party in connection with or in relation to the subject-matter of the Agreement.</p>

Term	Definition
"Delivery Manager"	means the Supplier Personnel responsible for the day to day delivery of the Services for the Supplier in accordance with Schedule 7 (Governance).
"Department"	means the Department of Immigration and Border Protection.
"Department Assets"	means the assets and supplies owned or commissioned by the Department that the Department procures to allow the Supplier to use, or otherwise makes available to the Supplier and which are necessary for the Supplier to fulfil the Services Requirements.
"Department Audit Representative"	means any representative or employee of the Department, the Department's external auditors and/or any third party appointed by the Department to conduct an Audit on its behalf, as notified to the Supplier from time to time, provided that such representatives shall not be drawn from any Competitor of the Supplier.
"Department Client Service Charter"	means the Department's guidelines to provide services to its Clients.
"Department Data"	means all data and information (including Personal Information of Clients) relating to the Department, Client and/or any other Commonwealth Department which is provided to or created by or on behalf of the Supplier in the course of fulfilling the Services Requirements, including data or information about any of the Department's operations, facilities, Department Personnel, assets, products, programs, and the Services Requirements. The Department Data includes Department Material.
"Department Facilities"	means any Departmental owned or controlled premises.
"Department Material"	means any Material, including the Department's Work Products such as the Department's Training Materials, the Intellectual Property Rights in which are owned by the Department or any Australian Government department, which is used to provide, or which forms part of, the Services Requirements, and shall include all Modification to such Material. The Department's Material includes the Department Software.
"Department National Office"	means the headquarter offices of the Department in Canberra, Australia.
"Department Personal Data"	means any Departmental Data which is Personal Information.
"Department Personnel"	means individuals who are the officers, employees, agents, advisors, consultants or subcontractors or the Department and its subcontractors (other than Supplier Personnel).
"Department Policies"	means the Security Policy, the Department's work health and safety policy and any other policy or guidance of the Department notified to the Supplier prior to the Effective Date or, thereafter, introduced by the Department as a Mandatory Change.

Term	Definition
"Department Representative"	means the individual identified in Clause 50 of the Terms and Conditions .
"Department Security Policy and Standards"	means any security policies and standards used by the Department to maintain the security, safety, and integrity of its operations and all related assets, materials and data.
"Department Software"	means any Software, the Intellectual Property Rights in which are owned by the Department, any Australian Government Department or agency, which is used to provide, or which forms part of, the Services Requirements.
"Department Systems"	means the information and communication technology the Department utilises for the provision of its computing and telephony services.
"Department Work Product"	means: a) any Reports, monitoring information or statements created as part of the Supplier's fulfilment of the Services Requirements and delivered to the Department; or b) any other deliverable created or developed by or on behalf of the Supplier in the course of and for the purpose of the fulfilment of the Services Requirements which the parties agree should be treated as the Department Work Product, including the inventory to be provided under Clause 28.9 of the Terms and Conditions .
"DFAT"	means the Australian Department of Foreign Affairs and Trade.
"Direct Competitor"	means a service provider that delivers substantially similar services to the Services.
"Discriminatory Change in Law"	means a Change in Law, the terms of which: a) apply: i) expressly to the Department or to a Supplier; ii) specifically to the provision of enquiry services; iii) specifically to the provision of business process services to the Commonwealth and not to other customers of the Supplier; or iv) specifically to the fulfilment of the Services Requirements by the Supplier under the Agreement; or b) requires a change to the Services Requirements.
"Dispute Resolution Procedure"	means the process set out in Section 7 of Schedule 7 (Governance) for resolving disputed issues arising under the Agreement.
"Draft Agreement"	means the draft contract or deed of agreement set out, or referred to, in Attachment D to the RFT.
"Effective Date"	has the meaning set out in Supplier's Solution given to it in Clause 4.1 of the Terms and Conditions .

Term	Definition
"Electronic Tender Box"	means the area in AusTender where Tenders are lodged electronically.
"End of Year Performance Report"	means the report which includes the Service Level performance metrics for the Agreement Year as set out in Schedule 11 (Reporting).
"Enquiry Handling Operations Plan"	means the plan which details how Enquiries will be handled by the Supplier as required by Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Intention"	means the nature of an enquiry as per Part E of Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Process"	means the collective processes, procedures and methodologies under which a Client makes an enquiry of the Australian Government about a visa, citizenship or trade permit or application as described in Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements and Supplier's Solution).
"ESC"	means: a) an Employment Suitability Check; or b) the Europe Service Centre; as applicable in the context of its use.
"Escalation Matrix"	means the matrix referenced in Schedule 2 (Business Requirements and Supplier's Solution).
"Exit Assistance"	means such advice and assistance as is reasonably requested by the Department to effect the smooth handover of responsibility for any of the Services Requirements and the continued operation of Services fulfilling the Services Requirements in accordance with the Service Levels and Service Credits, throughout the Exit Period (as more particularly described in Schedule 4 (Transition Management)).
"Exit Assistance Commencement Date"	has the meaning set out in Section 4.3 of Schedule 4 (Transition Management).
"Exit Manager"	has the meaning set out in Section 3.2 of Annex 4-2 of Schedule 4 (Transition Management).

Term	Definition
"Exit Period"	means the period for provision of Exit Assistance, being the earlier of: a) the date 12 months before the time for expiry of the Term, unless the Department notifies the Supplier of a later date; or b) the date on which a notice of Termination or reduction in scope is given in accordance with the Agreement, and will continue until 12 months after the date of expiry or Termination of the Agreement unless: c) the parties agree to a different period in writing; or d) the Department notifies the Supplier that Exit Assistance is no longer required.
"Exiting Supplier"	means any of the Incumbent Suppliers who will not be fulfilling any of the Services Requirements from the relevant Effective Date.
"Expiration Date"	means the end of the Term, or if agreed by the parties, the end of the Option Period, other than due to the Termination in accordance with the Agreement.
"Extended Service Level Default"	means the third or any subsequent consecutive Service Level Default for a specific Service Level. For clarity, each of the third, fourth, fifth and subsequent consecutive Service Level Defaults is an Extended Service Level Default.
"Facilities"	means the Supplier Facilities and the Department Facilities, in each case comprising premises, office space, furnishings, fixtures and fittings and other facilities.
"Fee Amendment"	means a change to the Service Charges ^{s47C} [REDACTED], in accordance with Schedule 8 (Change Control).
"Fee Amendment Change"	means a change that results in a Fee Amendment, in accordance with Section 3.3 of Schedule 8 (Change Control).
"Fee Handling Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements).
"Fee Review Procedure"	means the procedure described in Annex 8-3 of Schedule 8 (Change Control) for the adjustment of the Service Charges ^{s4} [REDACTED] as a result of a Change which is classified by such procedure as having an impact on the Service Charges ^{s4} [REDACTED]. 7

Term	Definition
"Force Majeure"	<p>means the occurrence of an event or circumstance beyond the reasonable control of an Affected party, without limitation:</p> <ul style="list-style-type: none"> a) explosions, fires, flood, earthquakes, catastrophic weather conditions, diseases, or elements of nature or acts of God; b) acts of war, terrorism, insurrection, riots, civil disorders, rebellion or sabotage; c) national or state-level states of emergency; d) labour disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful (but in any case, other than of the Affected party's employees or employees of the Affected party's subcontractors); e) nuclear, chemical or biological contamination; f) political interference or obstruction from a government outside of Australia; and g) outages of the public power supply, <p>provided that:</p> <ul style="list-style-type: none"> h) the Affected party is without fault in causing or failing to prevent such occurrence; and i) such occurrence cannot be circumvented by reasonable precautions and could not have been circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.
"Force Majeure Event"	means an event of Force Majeure.
"FTE"	means full time equivalent.
"Functional Group"	means the business areas of the department as per Part E of Schedule 2 (Business Requirements and Supplier's Solution).
"Future Requirements"	means the requirements identified as future requirements in Part B of Schedule 2 (Business Requirements and Supplier's Solution).
"Future Services"	means any future services agreed to be provided by Supplier in fulfilment of Part B of Schedule 2 (Business Requirements and Supplier's Solution).
"Generally Accepted Accounting Practice" or "GAAP"	means, in relation to a company, accounting principles, concepts, bases and policies generally adopted and accepted in accounting practice.
"Generic Requirements"	means the Business Requirements identified as such in Section 3 of Part A Schedule 2 (Business Requirements and Supplier's Solution).
"Global Feedback Unit"	means a unit of the Department dealing with compliments, complaints and suggestions.

Term	Definition
"Go-Live"	means where the Supplier assumes responsibility for the fulfilment of the relevant Services Requirement, having met the relevant Readiness Criteria and demonstrated to the Department's reasonable satisfaction that it is ready to do so.
"Go-Live Date"	means the nominated date prescribed in Part E - Annexure of Schedule 2 (Business Requirements and Supplier's Solution) for the commencement of the delivery of Services Requirement by the Supplier.
"Go-Live Readiness Certificate"	means a document which is signed by the Department to acknowledge that the Supplier has met the relevant Readiness Criteria and has demonstrated to the Department's reasonable satisfaction that it is ready to assume the fulfilment of the relevant Services Requirement.
"Good Industry Practice"	means, at any time, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced provider of business process services provided in connection with the fulfilment of the Services Requirements; and seeking in good faith to comply with its contractual obligations and complying with relevant Law.
"Goods and Services Tax" or "GST"	has the meaning given to it in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
"Harmful Code"	means any Software or code that is designed to infiltrate a computer, system, Network or other infrastructure without an end user's informed consent, such as malware, virus, worm, Trojan, time bomb, spam, phishing email, backdoors, bots, spyware, ransomware, adware, diallers, toolkits, key loggers, hijackers, web bug, exploits, cracking and hacking tools.
"Illegal Worker"	means a person who: <ul style="list-style-type: none"> a) has unlawfully entered and remains in Australia; b) has lawfully entered Australia, but remains in Australia after his or her visa has expired; or c) is working in breach of his or her visa conditions.
"Immigration and Border Protection worker" or "IBP worker"	has the meaning given to it in section 4 of the <i>Australian Border Force Act 2015</i> (Cth) or as determined by the Secretary or the Australian Border Force Commissioner under section 5 of that Act.
"Impact Analysis"	means the process described in Annex 8-2 to Schedule 8 (Change Control).

Term	Definition
"Incident"	<p>means:</p> <p>a) any event that is not part of the standard operation of a service and that causes, or may cause, an interruption to, or a reduction in, the quality of that service; or</p> <p>b) is a contact which is not related to non-standard operation of a service, but that is a request for information, advice or Documentation or is a request for some action to be taken regarding an affected Service on behalf of the user (for example, a password reset);</p> <p>and includes:</p> <p>c) an unplanned interruption to an IT service (including the Services); and</p> <p>d) a reduction in the quality of an IT service (including the Services).</p>
"Incumbent Contracts"	means the contracts between the Department and the Incumbent Suppliers (if any), including all subsequent amendments and addenda and related agreements.
"Incumbent Suppliers"	means the service providers (if any) which fulfil services requirements similar to the Services Requirements in a particular country or region immediately prior to the Effective Date.
"Indicative Fee Amendment Proposal"	has the meaning set out in Section 4.1.3 of Schedule 8 (Change Control).
"Information Security Manual" or "ISM"	means the standard which governs the security of government ICT systems.
"Information Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements and Supplier's Solution).
"Infrastructure Systems"	means all or any part of the Assets and Software.
"Initial Term"	means the period from and including the Effective Date to the Expiry Date as at the Effective Date.

Term	Definition
"Insolvency Event"	<p>means any of the following:</p> <ul style="list-style-type: none"> a) a "controller" (as defined in section 9 of the Corporations Act), a trustee, administrator or similar officer is appointed in respect of a person or any asset of a person; b) a liquidator or provisional liquidator is appointed in respect of a corporation; c) any application (not withdrawn or dismissed within five (5) Business Days) is made to a court for an order, an order is made, a meeting is convened or a resolution is passed, for the purpose of: <ul style="list-style-type: none"> i) appointing a person referred to in paragraphs a) or b) of this definition; ii) winding up or deregistering a corporation; or iii) proposing or implementing a scheme of arrangement other than with the prior approval of Health under a solvent scheme of arrangement pursuant to Part 5.1 of the Corporations Act; d) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate; e) any application (not withdrawn or dismissed within five (5) Business Days) is made to a court for an order, a meeting is convened, a resolution is passed or any negotiations are commenced, for the purpose of implementing or agreeing: <ul style="list-style-type: none"> i) a moratorium of any debts of a person; ii) a personal insolvency agreement; iii) any other assignment, composition or arrangement (formal or informal) with a person's creditors; or iv) any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee, v) or any agreement or other arrangement of the type referred to in this paragraph e) is ordered, declared or agreed to; f) a person becomes an insolvent under administration within the meaning of the Corporations Act; g) as a result of the operation of section 459F(1) of the Corporations Act, a corporation is taken to have failed to comply with a statutory demand (as defined in the Corporations Act); h) any writ of execution, garnishee order, mareva injunction or similar order, attachment or other process is made, levied or issued against or in relation to any asset of a person that has an adverse impact on the operation of the Supplier; i) the Commissioner of Taxation issues a notice to any creditor of a person under the <i>Taxation Administration Act 1953</i> (Cth) requiring that creditor to pay any money owing to that person to the Commissioner in respect of any Tax or other amount required to be paid by that person to the Commissioner (whether or not due and payable) or the Commissioner advises that creditor that it intends to issue

Term	Definition
"Intellectual Property Rights"	includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
"Intended Date"	has the meaning set out in Section 2.2.1(b) of Schedule 6 (Service Levels and Service Credits).
"Intended Service Model"	means the Department's designation of the proposed method of providing Application Services in a defined country or territory; i.e., either in-house by the Department or by a private sector partner.
"Invoicing Point"	has the meaning set out in Schedule 5 (Pricing).
"IT Operations Plan"	means the plan which details how the Supplier will operate IT to Deliver the Services as required by Schedule 2 (Business Requirements and Supplier's Solution).
"IVR"	means Interactive Voice Response.
"Key Position Personnel"	means the Personnel specified in Schedule 9 (Human Resource Management) as Personnel required to perform all or part of the work to service the Supplier Solution.
"Key Position"	means a position specified in Annex 9-1 to Schedule 9 (Human Resource Management) or otherwise agreed by the parties as being a key position and which the Supplier shall ensure is filled in accordance with Section 5 of Schedule 9 (Human Resource Management).
"Late Tender"	means a Tender which is lodged after the Closing Time.
"Law"	<p>means:</p> <ul style="list-style-type: none"> a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject; b) the common law and the law of equity as applicable to a party/the parties from time to time; c) any binding court order, judgement or decree; d) any applicable industry code, policy or standard enforceable by law; or e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any competent regulatory body having jurisdiction over a party or any of that party's assets, resources or business, <p>in any jurisdiction that is applicable to the Agreement or the within which the Services are provided, and "Legal" shall be interpreted accordingly.</p>
"Licence Transfer Right"	has the meaning set out in Clause 28.4.2 of the Terms and Conditions .

Term	Definition
"Line Manager"	has the meaning set out in Schedule 4 (Transition Management).
"Line of Business Systems"	means any business application(s) that hold key case, Client, and/or processing related data that are hosted on the Department's protected network.
"Lobbyist"	has the meaning as set out in the Lobbying Code of Conduct.
"Local Considerations"	means local conditions that apply in particular Countries as set out in Annex 2-1 to Schedule 2 (Business Requirements and Supplier Solution).
"Local Sales Tax"	means any sales, use, excise, value added or consumption tax imposed by any state, authority or country or any other body or person with authority to impose or levy any such taxes including, but not limited to, any amount similar in nature to GST.
"Location"	means a Service Centre providing services to the Department.
"Loss"	means all losses, liabilities, damages, awards, orders, decisions and Claims (including, in the case of the Department, the directly incurred losses, liabilities, damages and Claims of Services Recipients and including, in the case of the Supplier, the directly incurred losses, liabilities, damages and Claims of the Material Subcontractors), and all related costs, expenses and payments made to third parties (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).
"Material"	means any material in whatever form (including written, magnetic, electronic, graphic or digitised) including any methodologies, processes, know-how, reports, specifications, business rules or requirements, manuals, user guides, training materials and instructions, supporting material relating to Software and/or its design, development, modification, operation, support or maintenance, but excluding Software.
"Material Default"	means any Default by the Supplier which is sufficiently material to warrant Termination of the Agreement or, in the case of a partial Termination, is sufficiently material to warrant Termination of such part of the Agreement.
"Material Subcontract"	means the contract between the Supplier and a Material Subcontractor.

Term	Definition
"Material Subcontractor"	means any Supplier Subcontractor that fulfils the Services Requirements relating to: a) all of the Business Requirements at any Service Centre; b) any complete Business Requirement in any Country; or c) any other functions or services which the Department reasonably deems to be materially important to the provision of the Application Services as notified by the Department from time to time and agreed through the Change Control Procedure, and is approved by the Department in accordance with Section 4.1 of Schedule 9 (Human Resource Management).
"Measurement Period"	means the period of time during which a Service Level is to be measured, as set out the Service Levels and Service Credits Matrices.
"Migration Act"	means the <i>Migration Act 1958</i> (Cth).
"Milestone"	means a phase or deliverable agreed as a "Milestone" in respect of the completion of a service or task specified in a Transition Plan as a "Transition Milestone".
"Minimum Content and Format Requirement"	means a mandatory minimum content and format requirements for Tenders (if any) as set out in the RFT Details.
"Modify"	means to modify, add to, enhance, reduce, change, replace, vary, derive or improve, and "Modification" and "Modified" have corresponding meanings.
"Monthly Service Report"	means a Monthly report prepared by the Supplier, demonstrating the actual performance achieved against each of the Service Levels and Service Credits in the preceding month.
"Monthly"	means every calendar month.
"NAATI"	means the National Accreditation Authority for Translators and Interpreters.
"New Services"	means services and/or requirements (which reasonably fall within the scope of the Agreement) which are in addition to or an extension of the services provided in fulfilment of the Services Requirements as specified in Schedule 2 (Business Requirements and Supplier's Solution) and agreed as change under Schedule 8 (Change Control).
"Non-Chargeable Changes"	has the meaning set out in Section 3.2 of Schedule 8 (Change Control).
"Offshore"	means any location outside of Australian borders.
"Online Data Entry System"	means the online data entry system to be provided by the Supplier to provide the Data Entry Services.
"Onshore"	means any location within Australian borders.
"Operational Requirements"	means the Requirements set out in Part A of Schedule 2 (Business Requirements and Supplier's Solution).

Term	Definition
"Ordinary Course of Business"	means either: a) any acts, omissions or conduct which is consistent in all respects with the prevailing pattern, or course of conduct, or management used by the Supplier in the fulfilment of the Services Requirements or undertaken in order to comply with the applicable obligations under the Agreement; or b) acts, omissions or conduct which a well-managed company would undertake (assuming that such company is acting in a prudent and reasonable manner) in relation to the fulfilment of the Services Requirements, or in order to comply with all applicable obligations under the Agreement.
"Originating Party"	means the party raising a Change Request, as described in Section 4.2.3 of Schedule 8 (Change Control).
"Other Commercial Services" or "OCS"	means the supply of non Client Enquiry Services related commercial services to Clients by the Supplier, subject to the agreement by the Department.
"Other Service Provider"	means a service provider other than the Supplier or Supplier Subcontractor.
"Other Supplier Facility"	means facilities of the Supplier other than the Service Centres, as set out in Annex 10-2 of Schedule 10 (Facilities).
"Outline Exit Plan"	means the minimum provisions that will be included in any Exit Plan, as listed in Schedule 4 (Transition Management).
"Overall Transition Methodology and Plan"	means the overall methodology to be adopted by the Supplier and the relevant plans to achieve Transition in accordance with Schedule 4 (Transition Management).
"Performance Report"	means a report to be provided in accordance with Schedule 6 (Service Levels).
"Performance Standards"	means, individually and collectively, the quantitative and qualitative performance standards and commitments for the Services contained in the Agreement, including the Service Levels and Service Credits.
"Personal Information"	has the meaning set out in the Privacy Act as amended from time to time, and includes information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
"Personnel"	means, in relation to the Department, Department Personnel; in relation to the Supplier, Supplier Personnel; and in relation to the Tenderer, Tenderer Personnel.
"Plans"	means all and any Plan required under the Agreement, whether specified or otherwise, in order to successfully establish, transition, deliver or exit from the Services.
"PPSA"	means the <i>Personal Property Securities Act 2009</i> (Cth).

Term	Definition
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"Privacy Act"	means the <i>Privacy Act 1988</i> (Cth).
"Procedures Manual"	means the standards and procedures manual described in Clause 15 of the Terms and Conditions .
"Processed"	means the successful completion of any activity, as described in the Services Requirements.
"Procurement Process"	means the process by which the Department may approach the market for the provision of application services, including any of the Services Requirements, which process (so far as it involves the Supplier) may extend beyond the Termination Date.
"Projected Volumes"	means the estimated volumes of Clients set out in Annex 5-2 of Schedule 5 (Pricing).
"Proof of Identity" or "POI"	means a series of questions to determine a caller's identity to ensure compliance with the Privacy Act.
"Protective Security Policy Framework" or "PSPF"	means the framework published by the Attorney-General's Department to provide the controls for Australian Government services to protect its people, information and assets.
"Readiness Criteria"	means, in relation to any Transition activity or deliverable, such criteria as may be agreed between the parties against which such Transition activity or deliverable will be measured to assess whether or not it has been satisfactorily completed.
"Registered Tenderer"	means a Tenderer who has successfully completed and returned the Deed of Confidentiality required to access the RFT.
"Regulatory Agency"	means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity, ombudsman or authority and includes a minister of the Crown (in any right).
"Regulatory Audit"	means an Audit performed by or on behalf of a regulator.
"Related Body Corporate"	has the meaning given to it in the Corporations Act.
"Relief Event"	means: <ul style="list-style-type: none"> a) any failure by the Department (or if applicable a Services Recipient) to perform any of its responsibilities or obligations set out in the Agreement; b) any act of the Department or specific direction of the Department provided that the member of the Department's Personnel giving such direction has apparent authority to give such direction; c) a Force Majeure Event; or d) any other event as determined and agreed as Relief Event between the parties.

Term	Definition
"Removed Services"	means services removed from any Services Requirements by the Department in accordance with the provisions of the Agreement including on any Termination.
"Report"	means any document, format of data or information update (whether electronic or paper) to be provided to the Department by the Supplier from time to time, on a regular or ad hoc basis, for the purposes of reporting upon the fulfilment of the Services Requirements, including the data files and reports listed in Schedule 11 (Reporting).
"Request for Tender or RFT"	means: <ul style="list-style-type: none"> a) prior to the signing of an Agreement (if any), the request for tender documents for the provision of Client Enquiry Services, including all parts, attachments, schedules or annexures to it, and any addenda issued by the Department in respect of it; or b) post the signing of an Agreement (if any), the request for tender documentation for the provision of Client Enquiry Services.
"Required Consent"	means, where necessary to provide the Supplier's Solution, the approval of a third party to enter into a contract for required products and/or services with the Supplier or to novate, assign, transfer or license to the Supplier an existing service or contract.
"Resource Plan"	means the Supplier's resource plan for delivery of the Services.
"RFT Process"	means: <ul style="list-style-type: none"> a) prior to the signing of an Agreement (if any), the process described in this RFT; or b) post the signing of an Agreement (if any), the process adopted by the Department after the issue of RFT No 11/16 and leading to the execution of this Agreement.
"Risk Management Plan"	means the risk management plan which forms part of the Overall Transition Methodology and Plan.
"Risk Register"	means a register of Transition specific risks of delivery and interdependencies between Transition activities, maintained by the Supplier.
"Roll-Out Schedule"	means the program of Go Live Dates set out in Annex 4-9 to Schedule 4 (Transition Management).
"Schedule"	means each of the Schedules to the Agreement.
"Scheduled Downtime"	means the period of pre-arranged and pre-approved by the Department time that the Services or a part of the Services for which the pre-approval has been given will not operate.

Term	Definition
"Security Incident"	means any event relating to the provision of the Supplier's Solution and/or any Facilities used by the Supplier Personnel, which event damages or threatens to damage any tangible or intangible asset, including Assets, Software, Material, Facilities, money, personnel, the confidentiality of information, or the integrity and/or availability of any IT systems (including the Biometric Equipment and Biometric Software, if any) and/or the Department Data.
"Security Interest"	means: a) a security interest that is subject to the PPSA; b) any other mortgage, pledge, lien or charge; or c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.
"Security Policy"	has the meaning set out in Section 2.1 of Schedule 3 (Security).
"Self harm"	means deliberate injury to oneself.
"Sensitive"	means information that is a subset of personal information.
"Serious Delay"	means a delay that will have a material impact on the business operations of the Department.
"Service Centre"	means a location that provides Client Enquiry Services or other services as approved by the Department.
"Service Charge(s)"	means the fee that the Supplier is entitled to charge the Department for Clients making use of the Services, in accordance with the Agreement and as set out in Schedule 5 (Pricing).
"Service Credit Allocation"	means the number of Service Credits allocated to a particular Critical Service Level in accordance with section 5A of Schedule 6 (Service Levels and Service Credits).
"Service Credit"	means the amount (calculated in accordance with the Schedule 6 (Service Levels and Service Credits) payable to the Department if the Supplier fails to meet a Critical Service Level.
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"Service Level Default"	means the failure by the Supplier to meet a Service Level in any particular Measurement Period.
"Service Level Default Action"	means the performance management actions, as set out in Section 5.3 of Schedule 6 (Service Levels and Service Credits), which the Department may take on account of a Service Level Default by the Supplier.

Term	Definition
"Service Level Target"	means the contracted level of performance for a Service Level, as initially set out in Annexes 6-1 to Schedule 6 (Service Levels and Service Credits) and as the same may be changed in accordance with Sections 2.2 and 2.3 of Schedule 6 (Service Levels and Service Credits).
"Service Levels"	means those levels of performance of the Services set out in the Service Levels and Service Credits Matrices in Schedule 6 (Service Levels and Service Credits).
"Service Levels and Service Credits Matrices"	means the tables of Service Levels and Service Credits set out in Annexes 6-1 to Schedule 6 (Service Levels and Service Credits).
"Services"	means all of the Services to be provided by, and the functions and responsibilities of, the Supplier as set out in the Agreement, including the delivery of the Supplier's Solution.
"Services Removal"	means, in each case only as permitted by the Terms and Conditions : a) the Department itself fulfilling any of the Services Requirements, or appointing one or more third parties to do so; or b) the removal by the Department of any of the Services Requirements from the scope of the Agreement.
"Services Requirements"	means the Department's requirements for services to be provided by the Supplier set out in the Terms and Conditions and in all of the Schedules, with the exception of Annexes to Schedule 3 (Security).
"Services Transfer Date"	means any date on or prior to (but which shall not extend beyond) the Termination Date on which any Services Requirements are transferred from the control and provision by the Supplier (under the Agreement) to the control and provision of either the Department or a Successor Supplier.
"Services Transfer Plan"	means the final form transition arrangements setting out the timetable and scope of required activities for transitioning any of the Services Requirements to the Successor Supplier that will be agreed between the parties based upon the relevant provisions of the Exit Plan (having given due weight to the requirements and views of any Successor Supplier in accordance with the provisions of Schedule 4 (Transition Management)).
"Site Supervisor"	means the Supplier Personnel responsible for the day to day performance of the Supplier Personnel in delivering the Services as identified in Schedule 7 (Governance).
"SME"	means a Subject Matter Expert.
"Social Media"	means the profiles on websites and applications created by and identified as belonging to the Department, that enable users to create and share content or to participate in social networking.

Term	Definition
"Software"	means any computer program or programming (including Source Code, object code and firmware), program interfaces and any tools or object libraries embedded in that Software, which is used in, or forms part of, the Supplier's Solution in the fulfilment of the Services Requirements.
"Solution Change"	has the meaning set out in Annex 8-4 of Schedule 8 (Change Control).
"Solution Change Procedure"	means the procedure for agreeing Solution Changes as described in Annex 8-4 of Schedule 8 (Change Control).
"Source Code"	means Software in eye-readable form and in such form that it can be compiled or interpreted into equivalent object code together with all technical information and documentation necessary for the use, reproduction and Modification of such Software.
"Specified Languages"	means the list of languages as per Part E of Schedule 2 (Business Requirements and Supplier's Solution), if any.
"SSC"	means the Sydney Service Centre.
"Standard Work Day"	means seven point five (7.5) hours of work time or such other period as is agreed to reflect local working practices. Work time excludes time on annual leave, bank holidays, sick leave, attendance at training courses (unless such training is directly related to the Services), and lunch breaks taken during the day.
"Start-Up Period"	means the period starting on the relevant Effective Date and ending on the date that the relevant Transition Acceptance Certificate is signed by the Department.
"Status Tracking Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set in Schedule 2 (Business Requirements and Supplier's Solution).
"Step-In Event"	means an event set out in clause 46.1 of the Terms and Conditions .
"Step-In Powers"	has the meaning given to it in clause 46.5 of the Terms and Conditions .
"Step-In Right"	has the meaning given to it in clause 46.2.2 of the Terms and Conditions .
"Subcontract Flow-Down Provisions"	has the meaning set out in Section 7.2.1 of Schedule 9 (Human Resource Management).
"Subcontract Transfer Right"	has the meaning set out in Section 7.2 of Schedule 9 (Human Resource Management).
"Successor Supplier Service Transition Plan"	means the plan set out in Schedule 4 (Transition Management) dealing with the transfer of Services to the Successor Supplier.
"Successor Supplier"	means any party (including the Department or any other Agency of the Commonwealth) which the Department nominates to provide any or all of the Removed Services.
"Supplier"	means the party identified in the Agreement as the Supplier.

Term	Definition
"Supplier Audit"	has the meaning set out in Section 6.1 of Schedule 12 (Audit Access).
"Supplier Continuous Improvement Report"	means the Report set out in Annex 11-1 of Schedule 11 (Reporting) outlining the related Services which impact on the performance of the Services Requirements and Service Levels and Service Credits.
"Supplier Facility"	means a Service Centre or any Other Supplier Facility, including Supplier-owned or controlled premises (or Supplier Subcontractor-owned or controlled premises) which is used in the Supplier's or a Supplier Subcontractor's fulfilment of the Services Requirements.
"Supplier Group"	means the Supplier and all of its Affiliates.
"Supplier Group Company"	means a company or other entity that is part of the Supplier Group.
"Supplier Material"	means any Material (including the Supplier's Procedures Manual), created independently to the Agreement, whether before or after its Effective Date, the Intellectual Property Rights in which are owned by the Supplier or any Supplier Group Company or Material Subcontractor which is used to provide the Services Requirements, or which forms part of any of the Supplier's Solution, and shall include all Modifications to such Material.
"Supplier Parent Company"	means company or other entity that has Control over the Supplier.
"Supplier Personnel"	means all employees, officers, consultants, individual contractors and agents of the Supplier and Supplier Subcontractors assigned to fulfil all or part of the Services Requirements pursuant to the Agreement.
"Supplier Representative"	means the individual identified in Part A of this Schedule 1 (Definitions and Agreement Particulars).
"Supplier Security Manager"	the member of the Supplier Personnel responsible for security matters appointed in accordance with Section 3.1 of Schedule 3 (Security).
"Supplier Software"	means any Software created independently to the Agreement whether before or after its Effective Date, the Intellectual Property Rights in which are owned by Supplier or any Supplier Group Company, or any Material Subcontractor, which is used to provide the Services Requirements, or which forms part of the Supplier's Solution, and shall include all Modifications to such Software.
"Supplier Subcontract"	means a contract entered into between the Supplier and a Supplier Subcontractor, which shall include a lease for a Service Centre.

Term	Definition
"Supplier Subcontractor"	means any subcontractor or agent of the Supplier that fulfils directly any of the Services Requirements on behalf of the Supplier excluding any subcontractor or agent that is ancillary to or supportive of the Supplier's Solution and/or employment agencies through which the Supplier engages Supplier Personnel.
"Supplier Subcontractor Transfer Plan"	means a plan to provide for the timely and efficient transfer of Services under a Supplier Subcontract from the out-going to the incoming Supplier Subcontractor, in accordance with section 7.4 of Schedule 9 (Human Resource Management).
"Supplier Work Product"	means, other than in respect of the Department Work Product, any deliverable (in whatever form) which may be created or developed by or on behalf of the Supplier in the course of and for the purpose of the fulfilment of the Services Requirements, whether solely or jointly by the Supplier and the Supplier Subcontractors including any Software (which may include Modifications to Supplier Software) but excluding Third Party Software and Third Party Materials.
"Supplier's Solution"	means the manner in which the Supplier proposes to provide services to fulfil the Services Requirements, as set out in Schedule 2 (Business Requirements and Supplier's Solution) and the Annexes to Schedule 3 (Security).
"Support Cost"	means the costs (reflective of "one off" costs to allow Supplier to deliver Services at Effective Date) listed in Annex 1 of Schedule 5 (Pricing) that are not subject to COLA.

Term	Definition
"Survival Clause"	<p>means the following Clauses or Schedules of the Agreement, the obligation under which shall survive Termination of the Agreement:</p> <ul style="list-style-type: none"> a) Clause 14 (Service Charges, §47C and Taxes); b) Clause 15 (Procedures Manual); c) Clause 27 (Confidentiality); d) Clause 28 (Intellectual Property Rights); e) Clause 30 (Protection of Personal Information); f) Clause 34 (Audits Rights and Access); g) Clause 38 (Warranties and Representations); h) Clause 39 (Indemnity by Supplier); i) Clause 40 (Liability Cap); j) Clause 42 (Termination); k) Clause 43 (Consequences of Termination); l) Clause 45 (Transition Management); m) Clause 50 (Notices); n) Schedule 4 (Transition Management); o) Schedule 9 (Human Resource Management); p) Schedule 12 (Audit Access); q) Schedule 13 (Applicable Requirements); and r) Schedule 17 (Confidentiality), <p>and any other provision or Schedule or Clause of the Agreement which is expressed to survive Termination or which is required to give effect to such Termination or the consequences of such Termination.</p>
"Tax"	means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by a Regulatory Agency, together with any related interest, penalty, fine or other charge.
"Tax Invoice"	has the meaning given to it in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
"Technical Infrastructure"	means the combination of assets, Software and other items which the Supplier shall from time to time develop, implement and/or operate (as appropriate) in order to fulfil the Services Requirements including the architectural standards on which the Technical Infrastructure is based.
"Tender"	means a response submitted by a Tenderer to this RFT, including documents that are described as tenders, proposals, bids, offers, quotes, submissions, expressions of interest and applications for use on a multi-use list.

Term	Definition
"Tender Validity Period"	means the time period within which Tenders will remain open for consideration and acceptance by the Department, as specified in the RFT Details.
"Tenderer"	means any entity who submits a Tender, and includes a potential Tenderer.
"Tenderer Personnel"	means the officers, employees, agents, advisers, directors, partners, associates or subcontractors of the Tenderer.
"Term"	means the period from and including the Effective Date to the date of Termination of the Agreement (including any extensions).
"Termination Date"	means the effective date of Termination of the Agreement as specified in a notice of Termination given in accordance with the Terms and Conditions , or the Expiry Date of the Agreement.
"Termination for Convenience"	means the termination by the Department of all or part of the Agreement pursuant to Clauses 42.2 and 43 of the Terms and Conditions .
"Termination for Default"	means the termination by the Department of all or part of the Agreement pursuant to Clause 42.1 of the Terms and Conditions but excluding a Termination for Relief Event.
"Termination for Relief Event"	means the termination by the Department of all or part of the Agreement pursuant to Clause 44.1 of the Terms and Conditions .
"Termination"	means the termination of the Agreement due to expiry of the Term without renewal, or the expiry of the Term after extending the Agreement in accordance with Clause 4 of the Terms and Conditions , or a termination of the Agreement in accordance with the Terms and Conditions , and "Terminate" and "Terminated" shall be construed accordingly.
"Terms and Conditions"	means the clauses of the Agreement.
"Third Party Agreement"	means Agreements between the Department and Third parties, including, by way of example, software licences, maintenance contracts and equipment. Where "Third party" is defined as: means a legal entity company or person that is not a party to the Agreement.
"Third Party Interest"	means any legal or equitable right, interest, power or remedy in favour of any person other than the Commonwealth or the Supplier in connection with the Agreement, including, without limitation, any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest.
"Third Party Material"	means Material in which the Intellectual Property Rights are owned by a third party.
"Third Party Software"	means Software in which the Intellectual Property Rights are owned by a third party.

Term	Definition
"Ticket Management Platform"	means the tool that contains the history of Enquiries, as per the IT Operations Plan.
"Tier 0"	means an Enquiry that is resolved through self-service by the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. This can also include accessing various online service applications available after following prescribed log-in processes.
"Tier 1"	means an assisted enquiry that could have been answered by the client using the publically available information, such as information regarding a visa product, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.
"Tier 2"	means an assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.
"Tier 3"	means a final point of resolution, an enquiry that requires a Departmental Subject Matter Expert to answer the enquiry.
"TIS"	means the Translating and Interpreting Service, provided by the Department.
"Tools"	means: <ul style="list-style-type: none"> a) any Software that is used for software development or testing, data capture, system maintenance, data search, analysis, project management, measurement and monitoring, including related methodologies, processes and know-how; or b) a measurement used to monitor Service Levels and Service Credits, in accordance with Schedule 6 (Service Levels and Service Credits).
"Transferring IPR"	has the meaning set out in Section 6.3 of Annex 4-7 to Schedule 4 (Transition Management).
"Transferring Personnel"	means Supplier Personnel transferring to the Successor Supplier (if any).
"Transferring Subcontracts"	has the meaning set out in Section 5 of Annex 4-7 to Schedule 4 (Transition Management).
"Transition"	means the program of activities to be performed by the parties during the Transition Period in accordance with Schedule 4 (Transition Management) and the Agreement with the aim of, and including, the successful assumption by the Supplier of responsibility for the fulfilment of all of the Services Requirements.

Term	Definition
"Transition Acceptance Certificate"	means a document which is signed by the Department to acknowledge that the Supplier has met the relevant Readiness Criteria for any post-Effective Date Transition activities or deliverables and has demonstrated to the Department's reasonable satisfaction that it has fulfilled the relevant Services Requirements during the Start-Up Period.
"Transition In"	means the transition in of the Services in accordance with the Transition requirements described in Schedule 4 (Transition Management) and the Transition In Plan.
"Transition In Plan"	means the plan to be agreed between the parties that shall set out each party's obligations: a) in detail, to ensure a smooth, effective and efficient transition of the Services relating to the Services Requirements to the Supplier; and b) to ensure minimum disruption to the Department and to the delivery of Services provided to Clients, in accordance with Schedule 4 (Transition Management).
"Transition Manager"	means the person responsible for the Supplier's Transition on a Regional level, in accordance with Schedule 4 (Transition Management).
"Transition Milestone"	means each instance of completing delivery of certain materials or performance of certain activities related to Transition as are agreed in accordance with Schedule 4 (Transition Management) (save in relation to non-material issues which do not cause any risk of non-achievement of Transition under the Agreement).
"Transition Milestone Date"	means a milestone date identified as being key in a Transition Plan.
"Transition Out Plan"	means the plan to be developed under Part B of Schedule 4 (Transition Management).

Term	Definition
"Transition Period"	<p>means:</p> <p>a) for Transition In - the period commencing on the Effective Date and ending on the date when all agreed Transition activities are completed as demonstrated by the signing by the Department of the final Transition Acceptance Certificate in accordance with Schedule 4 (Transition Management);</p> <p>s47C</p>
"Transition Plan"	<p>means one or more of the plans required in accordance with Schedule 4 (Transition Management).</p> <p>s47C</p>
"Turnover Rate"	<p>means the rate at which Supplier Personnel are replaced by new Supplier Personnel or otherwise cease to be assigned to the fulfilment of the Services Requirements.</p>
"Unconditional Financial Undertaking"	<p>means an unconditional financial undertaking in a form suitable to the Department as may be required under Clause 31 of the Terms and Conditions.</p>
"Unique Identifier"	<p>means, as described in Schedule 2 (Business Requirements and Supplier's Solution), the specific identification label/code/reference/tag (which may be in the form of a bar code) for each single Client used to collate and track through the Enquiry Process the various parts of the Enquiry and Client Data (including the physical supporting documents, s47C).</p>
"Urgent"	<p>means requiring immediate action or attention</p>
"Value For Money" or "VFM"	<p>has the same meaning as in the Commonwealth Procurement Rules (available at https://www.finance.gov.au/sites/default/files/commonwealth-procurement-rules.pdf).</p>
"VHT"	<p>means Virtual Hold Technology.</p>

Term	Definition
“Web Information Services” or “WIS”	means the Software provided by the Supplier to provide information to potential Clients via the web channel, manage e-mail enquiries and complaints, manage appointment booking, enable Clients to track the status of their Enquiry.
“Webchat”	means an online exchange of messages in real time about the Services.
“Webform”	means a webpage that allows a Client to enter details of an Enquiry.
“Work Product”	means the Department Work Product and/or Supplier Work Product, as the context requires.
“Yearly Performance Average”	means, with respect to each Critical Service Level for which there was a Service Level Default during the Agreement Year, the average of the Supplier's actual Monthly performances in the Service Levels and Service Credits during the Agreement Year.

Attachment B - Statement of Requirement

Note to Tenderer: This Statement of Requirement will be attached to the Contract as part of Schedule 2 - Statement of Requirement and Supplier Solution.

1. Introduction

1.1. Background Information about the Department

- 1.1.1. From 1 July 2015, the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service were consolidated into a single Department of Immigration and Border Protection (**Department**). At this time, the Australian Border Force (**ABF**), a single frontline operational border agency, was established within the Department.
- 1.1.2. The Department is committed to protecting Australia's border and managing the movement of people and goods across it.
- 1.1.3. The Department's key objectives are to:
 - a. contribute to Australia's future through managed migration;
 - b. protect refugees and contribute to humanitarian policy internationally;
 - c. contribute to Australia's security through border management and Traveller facilitation;
 - d. make fair and reasonable decisions for people entering or leaving Australia, ensuring compliance with Australia's immigration laws and integrity in decision-making; and
 - e. promote Australian citizenship.
- 1.1.4. The *Migration Act 1958* (Cth), *Australian Citizenship Act 2007* (Cth) and the *Customs Act 1901* (Cth) provide the legislative framework for the business activities of the Department.
- 1.1.5. As part of its reform agenda, the Department is seeking to improve delivery of its customer service through innovative solutions that streamline client enquiry processes. At the same time, the Department must deliver contemporary services that meet community expectations and represent value for money.
- 1.1.6. The Department has been driving systematic improvements for many years, as part of core business, to better withstand future pressures.
- 1.1.7. As client expectations and world-wide, best-practice customer service standards rise, the Department is seeking to implement innovative solutions to enhance its Client Enquiry Services, especially in Service Centre environments.

1.2. Client Engagement

- 1.2.1. The Department is driving fundamental changes to the way in which we engage with our clients. We seek to be a world leader in border management and to set the global benchmark in all facets of our work. Digital and business transformation is integral to achieving this.
- 1.2.2. The Department's channels are usually the first point of contact a person or business has with the Department. Through our channels we support travellers and traders to comply with our rules and regulations, and support those seeking to become an Australian citizen. The Department is committed to strengthening our ability to minimise delays for low-risk travellers and goods while optimising measures to intercept unlawful persons and illegal goods. Through innovation and modernisation, our aspiration is to be out of sight and out of mind for law abiding travellers, migrants and businesses—a fully automated border environment where we only engage directly when we suspect unlawful activity.
- 1.2.3. While the Department is actively moving people and businesses to digital channels, and the percentage of users self-serving is increasing, the extent to which the Department can maximise the benefits of digital transformation is limited by the extent to which there is genuine self-service functionality available for users.
- 1.2.4. Australia is part of a globalised economy with increasingly complex and interconnected supply chains, and a rapidly growing volume of goods and people crossing our border. Globally, barriers to international travel have reduced, exposing Australia to increasing numbers of travellers, often with more complex travel routes.
- 1.2.5. The most recent global data tells a story. In 2015, the world's airlines transported 3.5 billion people or 100,000 flights a day over a global network of 51,000 routes. In the same year, the number of international migrants worldwide was the highest ever recorded, having reached 244 million. That represents 12 million more than in 2013 and a 41 per cent increase since 2000.
- 1.2.6. Over the years ahead, these numbers will increase at a global level, with ramifications and opportunities for Australia. It is expected that by 2017-18, the number of air and sea travellers will increase by 23 per cent; student visa grants will increase by 16.5 per cent; and citizenship applications will increase by 23 per cent.
- 1.2.7. While greater volumes of trade and travel will have clear economic benefits for Australia, there are heightened challenges to national security and border compliance and control. Redesigning our services, improving the client experience and shifting users to digital services will enable the Department to meet this increase in demand and mitigate some of these challenges.

- 1.2.8. The whole-of-government Digital Transformation Agenda requires the Department to offer high volume transactional services that are designed around user need based on the Digital Service Standard. Led by the Digital Transformation Agency (**DTA**), this agenda looks to deliver simple, clear and easy to use services, leveraging whole-of-government platforms to provide a seamless experience without having to know the inner workings of government. For the Department, this should consider the unique user base of our services, with many being non-citizens who, in many cases, are interacting with government for the first time.

2. The Requirement

2.1. Overview

- 2.1.1. The Department is seeking to engage a professional, competent service provider for the implementation and provision of Client Enquiry Services (**Services**).
- 2.1.2. The Department is seeking to improve the client experience whilst reducing the cost to the Department. The Department is seeking tendered solutions that demonstrate how the Tenderer can assist the Department to achieve this.
- 2.1.3. The Department requires transition to the Supplier (if any) to be completed by 1 July 2018 but would value an earlier transition completion if the Tenderer can demonstrate this would be:

- a. achievable by the Supplier (if any); and
- b. affordable by the Department;

whilst according with the principles in Schedule 4 (**Transition Management**).

- 2.1.4. The Services consist of being the first point of contact for the resolution of enquiries from the general public on Departmental services. In addition to client feedback, the Client Enquiries fall into four (4) main types, being:

- a. Pre-Lodgement – Eligibility and Application process for a Visa or Citizenship
- b. Post Lodgement - Status Updates or where a client cannot resolve their enquiry via self service
- c. Online Technical Assistance – errors, password resets
- d. Trade and Travel – customs duties, goods clearance process, status updates

and seven (7) main categories, being:

- e. Tourism
- f. Family
- g. Refugee & Humanitarian
- h. Work & Study

- i. Citizenship
- j. Trade & Customs (ABF)
- k. General and Foundational.

2.1.5. Client enquiries fall into four (4) 'tiers'. These tiers are:

Tier 0 – can be defined as self-service for the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. This can also include accessing various online service applications available after following prescribed log-in processes.

Tier 1 – an assisted enquiry that could have been answered by the client using publically available information, such as information regarding a visa product, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.

Tier 2 – an assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.

Tier 3 – is a final point of resolution, an enquiry that requires a Departmental Subject Matter Expert to answer the enquiry.

2.1.6. The successful tenderer (if any) will be required to resolve all Tier 1 and Tier 2 enquiries.

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2.2. Seamless Solution

- 2.2.1. The Department is seeking a service provider that is able to deliver a client enquiry service that is seamless to the Department's clients whilst at the same time assisting the Department to reduce the need for, and the number of client interactions seeking or requiring, assistance.
- 2.2.2. Particular attention is drawn to the strong desire of the Department to move clients from high cost client enquiry services channels to low cost self-service digital channels, and as such, reduce the provision of these services by the Tenderer under the Agreement (if any).

2.3. Interaction Model

- 2.3.1. The Department has developed an interaction model identifying the 'touch' points the Services will have with the Department and the structure for information that passes through these touch points. It is expected that the tendered solution will have components that will reside and operate outside the Department's ICT environment and these components must accord with the interaction model.
- 2.3.2. The successful Supplier (if any) will need to operate Departmental Line of Business systems and the tendered solution must address the client journey when moving from one ICT environment to another.

2.4. System Releases

- 2.4.1. Departmental system releases implement a range of ICT changes as a package, enabling multiple integrated systems to be enhanced, upgraded or implemented in a single systems outage.
- 2.4.2. These large scale Departmental release cycles occur approximately three times a year as follows:
 - a. Technical Release March;
 - b. Business Release June; and
 - c. Business Release November.

Note that the Departmental release cycle may be rescheduled.

- 2.4.3. The Department is progressing a website review and improvement project. The Department's website is hosted in SharePoint 2013. The Department expects to remain with SharePoint for at least 12-18 months, potentially including an upgrade to SharePoint 2016.
- 2.4.4. The Department's website review and improvement project is planned to rely on the Supplier's tools for websearch and dynamic content creation based on client insight, as described in the interaction model and the Architecture Requirements. The Department's key milestones for the project that may impact the Supplier's transition plan are:
 - a. 1 November 2017 – access to the Supplier's capability in a Dev/Integration environment.

- b. 9 December 2017 – access to the Supplier’s capability for Production use.

2.5. **Precedence and Criticality of Requirements**

2.5.1. The relative importance of the requirements are outlined below.

Relative Importance	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

3. Enquiry Profiles

3.1. Enquiry Volumes

3.1.1. For the purposes of responding to the RFT the following information is provided to inform the Tenderer's response in regards to expected minimum performance expectations of the solution. However, the Department does not guarantee any future volumes.

Call Volumes for Sydney Service Centre

Month	Calls received								Total
	CITIZEN	DOB-IN	FAM REF	STAT RES	TOURIST	TRADER	WORK RIGHTS	WORK STUDY	
Feb 2016	56,869	3,996	27,555	2,396	23,797	6,572	9,613	23,717	154,515
Mar 2016	54,945	4,051	27,431	2,332	22,877	6,728	8,929	21,814	149,107
Apr 2016	54,304	3,458	26,183	2,034	21,007	6,470	7,653	17,897	139,006
May 2016	58,444	3,772	27,206	2,146	21,402	6,752	7,997	18,465	146,184
June 2016	53,301	3,498	24,413	1,974	20,092	6,465	7,540	17,861	135,144
Jul 2016	57,213	3,753	24,012	2,735	20,564	6,330	8,320	24,717	147,644
Aug 2016	65,062	4,159	25,931	4,386	23,953	8,037	8,735	24,363	164,626
Sep 2016	53,533	3,629	22,163	3,704	21,957	7,451	8,014	16,854	137,305
Oct 2016	50,910	3,376	22,058	3,402	22,602	7,150	7,488	15,098	132,084
Nov 2016	55,151	3,681	24,637	4,177	24,736	6,954	8,228	17,234	144,798
Dec 2016	38,887	2,781	19,592	3,564	20,985	6,057	5,950	13,548	111,364
Jan 2017	46,626	2,344	19,559	-	4,535	26,690	4,149	42,919	146,822
Feb 2017	43,471	2,010	19,671	-	4,464	31,240	4,278	44,806	149,940
Total	688,716	44,508	310,411	32,850	252,971	132,896	96,894	299,293	1,858,539

Call Volumes for Americas Service Centre

	Calls received						
Month	ETA/Bus/WHM	Students	Temporary	Permanent	Citizenship	General Enquiries	Total
Jan-16	5,530	1,804	436	741	497	2,419	11,427
Feb-16	5,544	1,149	436	895	542	2,464	11,030
Mar-16	5,425	1,054	461	832	580	2,386	10,738
Apr-16	5,159	1,308	479	872	565	2,294	10,677
May-16	5,547	1,549	430	790	524	2,437	11,277
Jun-16	5,774	1,744	509	747	479	2,369	11,622
Jul-16	6,394	1,944	575	691	544	2,331	12,479
Aug-16	7,599	1,555	469	812	581	2,819	13,835
Sep-16	7,116	1,296	444	688	564	2,679	12,787
Oct-16	8,255	1,202	409	724	507	3,157	14,254
Nov-16	8,205	1,664	403	688	511	2,936	14,407
Dec-16	5,524	1,162	254	325	224	1,804	9,293
Yearly total	82,818	19,970	5,797	9,387	6,599	32,649	157,220
Jan-17	6,746	2,539	492	582	481	2,554	13,394

Call Volumes for Europe Service Centre

	Calls received										
Month	English	German	French	Italian	Spanish	Croatian	Serbian	Russian	Greek	Polish	Total
Jan-16	8,506	1,587	815	510	228	102	1,182	1,619	22	228	14,799
Feb-16	8,411	1,346	765	531	345	133	901	1,963	28	262	14,685
Mar-16	7,544	1,040	645	544	309	105	574	1,828	39	167	12,795
Apr-16	6,610	859	712	614	252	84	608	1,640	22	15	11,416
May-16	7,229	1,055	621	630	451	106	689	1,178	24		11,983
Jun-16	8,306	1,508	871	723	476	104	684	1,057	2		13,731
Jul-16	8,864	1,829	843	715	791	134	652	1,154	54		15,036
Aug-16	8,714	1,812	890	674	553	144	758	1,298	19		14,862
Sep-16	8,604	1,856	857	855	378	151	836	1,360	29		14,926
Oct-16	7,934	1,963	806	929	338	213	278	681	40		13,182
Nov-16	7,202	1,908	872	819	414	246	421	1,076	58		13,016
Dec-16	4,366	1,179	712	598	309	199	290	1,542	28		9,223
Yearly Total	92,290	17,942	9,409	8,142	4,844	1,721	7,873	16,396	365	672	159,654

Email Volumes for Sydney Service Centre

Month	Emails Received
Jan-16	2,025
Feb-16	2,092
Mar-16	2,068
Apr-16	2,472
May-16	2,443
Jun-16	2,244
Jul-16	1,368
Aug-16	1,854
Sep-16	1,957
Oct-16	2,217
Nov-16	1,728
Dec-16	2,032
Yearly Total	24,500

The Europe Service Centre also receives approximately 3,500 email enquiries a month.
The Americas Service Centre does not support email enquiries.

Commentary on Tiering and Seasonality of Calls for Each Intent at Sydney Service Centre

IVR	Intent	Tier split		Peaks & Troughs (reasons driving calls to Service Centre)
		Tier 1	Tier 2	
Tourist	Tourist	70%	30%	Visitor Visas usually experience peak periods during major public holiday periods such as Christmas/NY, Easter and mid-year for those countries with holiday periods in middle of the year (usually from Northern Hemisphere). In 2016 there were numerous changes that drove calls to the Service Centre. These included delays in processing times for Sponsored Visitors Visas and the introduction of the Visitor Visa frequent traveller stream.
	Family / Refugee & Humanitarian	70%	30%	Family Visas don't experience peak periods and remain consistent throughout the year.
WorkStudy	Ref & Hum	60%	40%	Refugee & Humanitarian Visas do not experience peak periods unless there are changes to legislation that impact this visa stream. In 2016, the Syrian Crisis hotline was redirected to the Service Centre for members of the public concerned and concerns over the US government change of President. This resulted in increased calls for approximately 2 months.
	Workers	55%	45%	Workers Visas remain consistent throughout the year. Usually changes to the Skilled Occupational List can drive calls to the Service Centre. The SOL is typically updated once a year.
	GSM	70%	30%	General Skilled Migration (GSM) visas remain consistent throughout the year apart from changes to the Skilled Occupation List (SOL).
	Students	50%	50%	Student visas generally experience 2 peak periods throughout the year due to student visas expiring (15 March and 15 September). In 2016, there were numerous changes and events that increased the calls at the SSC. <ul style="list-style-type: none"> Media reports claiming that DIBP is refusing Indian student visa applications on the basis that applicants have done their Class XII from a school affiliated with the Punjab School Education Board (PSEB) Change to student visa policy – the new subclass 500 was introduced (reducing 5 visas to 1) and during transition some clients experienced delays in receiving their acknowledgement letter or having their bridging visa granted for their online student visa application.

IVR	Intent	Tier split		Peaks & Troughs (reasons driving calls to Service Centre)
		Tier 1	Tier 2	
Citizenship	Citizenship	50%	50%	Citizenship can generate a high influx of calls towards the end of the year with client's requesting to organise their Citizenship ceremony for Australia Day. In 2016, changes that occurred included the increase of fees on 1 January, additional pathway to PR for non-protected SCV holders (NZ citizens), Amalgamation of councils announced affecting ceremonies, Federal election - clients were unable to receive their certificates at their ceremony which impacted those clients who wished to apply for Passports in order to travel, Q-Flow Melbourne Metro clients introduced, continuous phone calls on Assurance Cases (7,705 Assurance applications on-hand during the month of December).
Trader (Customs)	Trader (Customs)	40%	60%	Limited data.
Workrights	Workrights	40%	60%	Work-rights phone calls remain consistent throughout the year. Most calls are transferred to the Work Study intent due to questions about 457/186/187 visas.
Dob-In	Dob-In	100%	0%	Dob-In calls remain consistent throughout the year.
Status Resolution	Status Resolution	80%	20%	Status Resolution calls usually peak after Students peak due to unlawful students (March and September).

4. Business Requirements

4.1. Overview

- 4.1.1. The Business Requirements describe the requirements that the Department is seeking to meet through this RFT process. The tendered solution against the Business Requirements will form Schedule 2 (**Business Requirements and Supplier's Solution**) to the Contract.

4.2. Structure

- 4.2.1. The Business Requirements comprises the following:

Part A – Operational Requirements, which in turn consists of:

- (a) Implementation Requirements;
- (b) General Requirements;
- (c) Service Requirements; and
- (d) Architecture Requirements.

Part B – Future Requirements;

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Part D – Annexure.

- 4.2.2. The Future Requirements (Part B) are a group of Business Requirements that relate to the expected future operations of the Department. The Future Requirements will become part of the Services as they are requested by the Department (at its sole discretion) during the Term of any resultant Agreement.

4.3. Business Requirements

PART A – OPERATIONAL REQUIREMENTS

Implementation Requirements

The Implementation Requirements set out the specific requirements of the successful Supplier (if any) in implementing the Services. The Implementation Requirements do not limit any of the other requirements of the Agreement.

	Implementation Requirements	Relative Importance
IR.01.01	The Supplier is to work collaboratively with the Department to ensure the Services are implemented and Transitioned in a smooth, effective and efficient manner.	Essential
IR.01.02	The Supplier is to use its best endeavours to minimise risk when Transitioning.	Essential

General Requirements

The General Requirements set out the core services to be delivered.

	General Requirements	Relative Importance
GR.01.01	As and when required the Supplier will work collaboratively with the Department to co-design solutions for new requirements and/or future enhancements to the Services.	Essential
GR.01.02	The Supplier will seek to continuously improve the delivery of the Services and the experience of the Clients.	Essential
GR.01.03	The Supplier is to develop and maintain an Enquiry Handling Operations Plan.	Essential
GR.01.04	The Supplier is to make changes to the Enquiry Handling Operations Plan within 10 Business Days or as otherwise agreed with the Department when changes are reasonably requested by the Department.	Essential
GR.01.05	The Supplier is to develop and maintain an IT Operations Plan.	Essential

	General Requirements	Relative Importance
GR.01.06	The Supplier is to make changes to the IT Operations Plan within 10 Business Days or as otherwise agreed with the Department when changes are reasonably requested by the Department.	Essential
GR.01.07	The Supplier is to produce and keep up to date all Plans as required by the Agreement, detailing the activities required to successfully establish and deliver the Services. All Plans must be approved by the Department before they are implemented.	Essential
GR.01.08	The Supplier is to implement the Plans as approved by the Department.	Essential
GR.01.09	The Supplier is to produce and keep up to date a Procedures Manual.	Essential
GR.01.10	The Supplier is to obtain approval from the Department prior to commencing the delivery of the Services.	Essential
GR.01.11	The Supplier is to establish and maintain the Supplier Facilities in accordance with Schedule 10 (Facilities).	Essential
	Note: The Supplier must also ensure that all deficiencies identified in a site inspection report are corrected within the timeframe specified by the Department.	
GR.01.12	The Supplier is to provide and only use signage that: <ul style="list-style-type: none"> a. meets Australian Government specifications; and b. is approved by the Department. 	Essential
GR.01.13	The Supplier is not to insert logos or other branding on the Department's documents, systems or material without the prior written consent of the Department.	Essential
GR.01.14	The Supplier is not to represent itself as an agent or representative of the Department or the Commonwealth of Australia.	Essential

	General Requirements	Relative Importance
GR.01.15	The Supplier is not to use official logos of the Australian Government without the express consent of the Department.	Essential
GR.01.16	The Supplier is to obtain the Department's written consent prior to any co-location arrangements and must comply with any conditions imposed by the Department when providing any such consent.	Essential
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GR.01.18	The Supplier is responsible for the ongoing delivery of training to Supplier Personnel as and when required.	Essential
	<p>Note: The Department will provide relevant information pertaining to the Department's operations. This may, in some instances, include the training materials.</p> <p>Where training material is required due to a change in Departmental policy or operations, the Supplier will work with the Department to develop that training material.</p>	
GR.01.19	The Supplier is to redirect Client Enquiries to the digital Channel where applicable.	Essential

Services Requirements

The Services Requirements consists of a series of grouped high level requirements. The high level requirement titles do not limit the scope of the requirements that support them.

HLR.01	Enquiry Handling	Relative Importance
HLR.01.01	The Supplier is to operate a Client Enquiry Service on behalf of the Department.	Essential
HLR.01.02	The Supplier is to receive Client Enquiries during the Hours of Operation specified in the Part E - Annexure.	Essential
HLR.01.03	The Supplier is to resolve Client Enquiries in a timely manner with the fewest possible interactions.	Essential
HLR.01.04	The Supplier is to promote the use of the Department's Website and Online Services.	Essential
HLR.01.05	The Supplier is to receive Clients Enquiries using, but not limited to: <ul style="list-style-type: none"> a. Phone; b. Webforms; c. Social Media; and d. Webchat. 	Essential
HLR.01.06	The Supplier is to ensure that, unless otherwise agreed, all Client Enquiries are received and remain Onshore at all times.	Essential
HLR.01.07	The Supplier is only to use the Department agreed Channels for Client Enquiries.	Essential
HLR.01.08	The Supplier is to publish to approved Social Media platforms content as requested by the Department.	Essential
HLR.01.09	The Supplier is to make outbound calls to Clients as required by the Department.	Essential

HLR.01.10	The Supplier is not to provide Advice to any Client, except as expressly permitted by the Department. The Supplier is, at the commencement of handling each Enquiry, to inform Clients they can provide information only and cannot provide Advice.	Essential
HLR.01.11	The Supplier is to, at the commencement of handling each Enquiry, inform Clients of the mandated Privacy of Information protocols and Enquiry recording practices.	Essential
s47C		
HLR.02	Specific Enquiry Management Services	
HLR.02.01	The Supplier is to escalate Client Enquiries in accordance with the Escalation Matrix.	Essential
HLR.02.02	The Supplier is to have the required knowledge in the Functional Groups and Enquiry Intentions in order to resolve Client Enquiries.	Essential
HLR.02.03	The Supplier is to comply with the Multicultural Language Services Guidelines for Australian Government Agencies.	Essential
	Note: Translating and interpreting services for all Clients are to be provided by the Department.	
HLR.02.04	The Supplier is to only use the Department Line of Business Systems where it is necessary to do so in order to resolve a Client Enquiry.	Essential
HLR.02.05	The Supplier is to use the Department Information Sources defined in the Enquiry Handling Operations Plan to resolve Client Enquiries.	Essential
HLR.02.06	The Supplier is to complete a successful POI check with the Client prior to providing them with any Client, case or application data.	Essential

HLR.02.07	<p>The Supplier is to record and archive all Client interactions. The minimum record collection requirements are:</p> <ul style="list-style-type: none"> a. the time and date of the interaction; b. the channel over which the Enquiry took place and the contact details of the Client as appropriate to that channel; c. the name and a unique employee identifier of the Supplier staff member involved, where one is involved; d. the name and other identifying details of the Client, where these have been established; e. a sound file of all voice-based interactions; and f. copies in English, and the original language of the Client Enquiry and all Supplier responses for Client Enquiries not conducted in English, of all text-based interactions. 	Essential
HLR.02.08	The Supplier is to provide on request by the Department transcripts in English, and the original language of the Client Enquiry and all Supplier responses for Client Enquiries not conducted in English, of all voice-based interactions.	Essential
HLR.02.09	The Supplier is to make all records available to the Department upon request and/or via regular quality assurance and reporting cycles as agreed with the Department.	Highly Desirable
HLR.02.10	The Supplier is to adhere to the Department's Records Management Requirements and the Supplier's IT Operations Plan in the storage, archive and destruction of Client interactions for all Channels (see Schedule 13 (Applicable Requirements)).	Essential
HLR.02.11	The Supplier is to maintain a Client interaction history, for all Channels. The Supplier is to identify and report multi or repeated interactions by a Client.	Essential
HLR.02.12	The Supplier is to measure and report on Client experience in accordance with the method described in the Enquiry Handling Operations Plan.	Essential

HLR.02.13	The Supplier is to make the data and analysis related to measuring and reporting on Client experience available to the Department upon request and/or via regular reporting cycles as required by the Department.	Essential
HLR.02.14	<p>The Supplier is not to negatively affect the Client experience when, or apply any Service Charge s47C for providing input into, measuring Client experience.</p> <p>s47C</p>	Essential
HLR.03	Client Data Entry and Update Services	
HLR.03.01	<p>When requested by the Client, the Supplier is to collect the following information from the Client:</p> <ul style="list-style-type: none"> a. Address and Passport details (929 form functions); b. Contact details; c. Change in circumstances or status (Marital status, change of employer); <p>and update the appropriate Line of Business systems.</p> <p>The Supplier is to conduct a successful POI check prior to performing this requirement.</p>	Essential
HLR.03.02	The Supplier is to update Client Data in all Line of Business Systems accessed during a Client Enquiry in accordance with the Department approved Data Entry and Update Services in the Enquiry Handling and Operations Plan. The Supplier must conduct a successful POI check prior to performing this requirement.	Highly Desirable
HLR.04	Knowledge Management Requirements	
HLR.04.01	The Supplier is to use a knowledge management platform as defined in the Enquiry Handling Operations Plan to resolve Client Enquiries.	Essential

HLR.04.02	The Supplier is to incorporate changes to the knowledge management platform as directed by the Department.	Essential
HLR.04.03	The Supplier is to provide recommendations to the Department on updates to the Department Information Sources based on the Supplier's understanding of best-practice for information management and Enquiry trends.	Highly Desirable
HLR.05	Escalation Requirements	
HLR.05.01	The Supplier is to resolve all Client Enquiries in accordance with the approved Escalation Matrix.	Essential
HLR.05.02	The Supplier is to escalate Client Enquiries to the Department in accordance with the Enquiry Handling Operations Plan as approved by the Department.	Essential
HLR.05.03	The Supplier is to only use the Department's after hours contact point in accordance with the process defined in the Enquiry Handling Operations Plan.	Essential
HLR.06	Reporting Requirements	
HLR.06.01	The Supplier is to provide all Reports required in the Agreement to the required quality and in the required format (see Schedule 11 (Reporting)).	Essential

Architecture Requirements

AR.01	General	Relative Importance
AR.01.01	The Supplier is to provide information reasonably requested by the Department to assist the Department document the architecture of the Supplier's solution as it concerns the movement or storage of Departmental Data and Client Data.	Essential

AR.01.02	The Supplier is to manage records in accordance with the IT Operations Plan as approved by the Department and the Department's Records Management Policy.	Essential
AR.01.03	The Supplier is to ensure all online services are compliant with the latest version of the WCAG 2.0.	Essential
AR.02	Website Search	
AR.02.01	<p>The Supplier is to provide a search tool that links seamlessly from the Department website, in accordance with the IT Operations Plan as approved by the Department. The Supplier search tool should:</p> <ul style="list-style-type: none"> a. Display with the same look and feel as the Department website; b. Enable user controls and filters agreed with the Department; c. Should not open a new window or tab by default to conduct any search; d. Should not, without the express written approval of the Department, include any advertising or links to any material outside the Department's Website; e. Provides a search across all content that is available on the Department website, and other sources as agreed with the Department, updated as required to ensure search results match the published content; and f. Be informed by factors including the Client's explicit search query, navigation on the website and the Supplier's understanding of Enquiry trends. 	Highly Desirable
AR.02.02	The Supplier is to provide the ability for the Department's website to use insights from the Supplier's search tool to assist in the dynamic presentation of content to Clients.	Highly Desirable

AR.02.03	<p>The Supplier is to:</p> <ul style="list-style-type: none"> a. Provide a code fragment or fragments for the Department to include on the webpages that will initiate the Supplier's search tool, monitor navigation and inform the display of dynamic content from the Department's website; and b. Assist the Department with security assessment of the Supplier's search tool and code fragment or fragments. <p>Note: The Department will not deploy the Supplier's code fragment or fragments to the Department's production website until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Highly Desirable
AR.02.04	The Supplier is to provide a process for determining whether a search using the Supplier search tool has resolved a Client Enquiry.	Highly Desirable

AR.03	Phone/IVR	
AR.03.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Provide the capability for Clients to lodge Client Enquiries by voice Channel, including public phone networks as a minimum; b. Provide the capability to initiate calls to Clients; c. Provide a means of transferring calls between the Supplier and the Department; d. Provide a means for accessing the interpreter services; e. Provide the lowest cost call path for all calls where the costs are incorporated in to s47C Service Charges; f. Provide recordings and transcripts of all voice Client Enquiries (in English and the language of the call where the call is not conducted in English) to the Department; and g. Provide a report to the Department of all voice Client Enquiries where the transcript of the conversation matches criteria specified by the Department. 	Essential
AR.04	Webform	
AR.04.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Operate a Webform platform that allows Clients to lodge Client Enquiries and receive responses from operators at all Tiers; b. Operate the Webform platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant Client Data, including Clients being able to only access and update the Client Data they have created; c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the Webform platform; 	Essential

<div>d. Manage access to the Webform platform for Departmental staff as requested by the Department;</div> <div>e. Provide an efficient and secure facility for Clients to establish, confirm and recover account details;</div> <div>f. Make updates to Webforms as requested by the Department to support Client Enquiries that are to be handled by the Department;</div> <div>g. Provide a code fragment for the Department to include on the webpages that will initiate the Supplier's Webform platform;</div> <div>h. Assist the Department with security assessment of the Supplier's Webform platform and code fragment;</div> <div>Note: The Department will not deploy the Supplier's code fragment to the Department's production website or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</div> <div><div>i. Provide infrastructure information to the Department that allow the Department to authorise the Service Provider to send emails on the Department's behalf;</div><div>j. Provide details of the Supplier's systems that will send emails on behalf of the Department; and</div><div>k. Assist the Department with security assessment of the Supplier's systems that will send emails on behalf of the Department.</div></div> <div>Note: The Department will not enable the Supplier to send emails on behalf of the Department's until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</div>	
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AR.05	Webchat	
AR.05.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ol style="list-style-type: none"> Operate a Webchat platform that assists to resolve Client Enquiries; Operate the Webchat platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant Client Enquiries; Provide a means for the Department to request, modify or cancel access for Departmental staff to the Webchat platform; Manage access to the Webchat platform for Departmental staff as requested by the Department; Provide a code fragment for the Department to include on the webpages that will initiate the Supplier's Webchat platform; and Assist the Department with security assessment of the Supplier's Webchat platform and code fragment. <p>Note: The Department will not deploy the Supplier's code fragment to the Department's production website or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Essential
AR.06	Ticket Management	
AR.06.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ol style="list-style-type: none"> Operate a Ticket Management Platform that supports Client Enquiries at all Tiers and from all means of lodgement; Operate the Ticket Management Platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update 	Highly Desirable

	<p>relevant Client Data;</p> <ul style="list-style-type: none"> c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the Ticket Management Platform; d. Manage access to the Ticket Management Platform for Departmental staff as requested by the Department; e. Provide a means to initiate an email to a Client to notify them of an update to a ticket, including a ticket initiated by a Service Centre, for their attention; f. Provide a means to initiate an email to a Department personnel when there is an update to a ticket or a creation a new ticket for their attention; g. Provide a means for the Department to request, modify or cancel rules for the routing of tickets to Department personnel; h. Manage routing rules to Departmental personnel as requested by the Department; i. Provide access to the Department for the full conversation of all Client Enquiries from all means of lodgement; j. Provide a report to the Department including the full transcript of all interactions of all Enquiries that match criteria specified by the Department; k. Integrate the Ticket Management Platform with the Department's telephony system such that a phone call transferred between an operator not using the Department's telephony system and one using the Department's telephony systems allows the receiving operator to be aware of the ticket history before answering the phone call; and l. Assist the Department with security assessment of the Supplier's Ticket Management Platform. <p>Note: The Department will not allow the Supplier to store any Client details in the Ticket Management Platform until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	
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AR.06.02	<p>The Supplier is to provide the Department with ongoing access to the data in the Supplier's Ticket Management Platform until the latter of:</p> <ul style="list-style-type: none"> a. the end of the Exit Period; or b. the Supplier has provided the data to the Department in a form approved by the Department. 	Highly Desirable
AR.07	Knowledge Management	
AR.07.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Supply and operate a knowledge management platform that supports Client Enquiries at all Tiers and from all means of lodgement; b. Operate the knowledge management platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant content; c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the knowledge management platform; d. Manage access to the knowledge management platform for Departmental staff as requested by the Department; e. Transition in to the knowledge management platform before commencing delivery of the Services based on the content provided by the Department at least 20 Business Days prior; and f. Assist the Department with security assessment of the Supplier's knowledge management platform, as required. <p>Note: The Department will not provide content for the Supplier's knowledge management platform or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Highly Desirable

AR.07.02	<p>The Supplier is to provide the Department with ongoing access to the data in the Supplier's knowledge management platform until the latter of:</p> <ul style="list-style-type: none"> a. the end of the Exit Period; or b. the Supplier has provided the data to the Department in a form approved by the Department. 	Highly Desirable
AR.07.03	<p>The Supplier is to provide the Department's other service providers with ongoing access to the data in the Supplier's knowledge management platform for the purposes of allowing those other service providers to provide services to the Department and the Department's clients.</p>	Highly Desirable

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PART D – ANNEXURE

The information within this Part D – Annexure provides detail to support the Business Requirements.

Channels	<p>The Department Channels are:</p> <ul style="list-style-type: none"> a. Digital; b. Phone; c. Paper; and d. In-person. <p>The Department agreed Channels are:</p> <ul style="list-style-type: none"> a. Digital; and b. Phone
Enquiry Intentions	<p>The Enquiry Intentions reflect the nature of the enquiry. The Enquiry Intentions are generally, but are not limited to:</p> <ul style="list-style-type: none"> a. Pre Lodgement – Eligibility and Application process for a Visa or Citizenship b. Post Lodgement – Status Updates or where a Client cannot resolve their enquiry via self service c. Online Technical Assistance – errors, password resets d. Trade and Travel – customs duties, goods clearance process, status updates e. Feedback – complaints, compliments or suggestions
Functional Groups	<p>The Functional Groups reflect the business of the Department. The current functional groups are:</p> <ul style="list-style-type: none"> a. Tourism b. Family c. Refugee & Humanitarian d. Work & Study e. Citizenship f. Trade and Customs
Go-Live Date	The Go-Live Date is 1 July 2018.
Hours of Operation	The hours of operation for the services are 09:00 – 17:00 Monday to Friday for any potential Client anywhere in the world.

Attachment C – Service Levels

1. Introduction

1.1 This Attachment C advises the Tenderer of the Service Levels that the Department intends to implement with the Agreement, if any.

1.2 The objectives of the Service Levels are to:

- 1.2.1 ensure that the Tenderer's performance meets the Department's business and regulatory requirements;
- 1.2.2 give sole responsibility to the Tenderer for the end-to-end Service;
- 1.2.3 provide a mechanism designed to highlight performance failures;
- 1.2.4 provide measurements and information for identifying causes of failure and rectifying them;
- 1.2.5 ensure root causes of performance failures will be identified and resolved;
- 1.2.6 provide incentive to the Tenderer to perform the Services at the required level by, where there is a Service Level Default, providing restrictions on:

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- (c) sharing details of the Tenderer's performance against the Service Levels with the Five Country Conference group;

- 1.2.7 address the continuous improvement of Service Levels and Service Credits;
- 1.2.8 in respect of Services for which a Service Charge is applicable, provide a price adjustment to the Department where Service Levels will be not met, through the application of Service Credits offsetting any claim for Service Charges (if any);

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1.3 The Tenderer will be required to perform the Services so as to achieve or exceed the Service Levels and Service Credits at all times.

1.4 The Service Levels and Service Credits and their respective measurements, as set out in Schedule 6 (**Service Levels and Service Credits**) to the Draft Contract, will be intended to measure whether the Tenderer is meeting the levels of performance necessary to satisfy the Department's business and regulatory requirements. Accordingly, the Service Levels and Service Credits:

- 1.4.1 will be regularly reviewed by the Parties in accordance with **clause 9.2** of the **Draft Contract**;
- 1.4.2 will be subject to continuous improvement objectives, as set out in Section 2.3 of Schedule 6 (**Service Levels and Service Credits**) and **Clause 9.2** of the **Draft Contract**; and
- 1.4.3 may be added to, amended or deleted during the Term, in accordance with Section **Error! Reference source not found.** of Schedule 6 (**Service Levels and Service Credits**),

in order to achieve the accurate and consistent measurement of the Tenderer's performance of the Services.

2. Service Levels

- 2.1 The Tenderer is to refer to Schedule 6 (**Service Levels and Service Credits**) for the Service Levels.



Australian Government
Department of Immigration and Border Protection

DEED OF AGREEMENT

BETWEEN

COMMONWEALTH OF AUSTRALIA

AND

[INSERT SUPPLIER NAME]

in relation to
Provision of Client Enquiry Services

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SERVICES AGREEMENTDEED OF AGREEMENT DATED **[INSERT DATE]**

BETWEEN

COMMONWEALTH OF AUSTRALIA, as represented by theDepartment of Immigration and Border Protection (the "**Department**")

ABN 33 380 054 835 of 6 Chan Street BELCONNEN ACT 2617 Australia

AND

[INSERT SUPPLIER NAME]**[INSERT SUPPLIER ADDRESS]** (the "**Supplier**")

RECITALS:

- A. The Department requires the management of Client Enquiry Services for persons lodging enquiries regarding visa, citizenship or trade applications or permits (**Services**). The Department also requires the provision of any incidental services reasonably and necessarily required for or related to the proper performance or function of the Services, as specified in the Agreement.
- B. The Supplier has fully informed itself on all aspects of the work required to be performed under the Agreement. In particular, the Supplier is aware of the need to maintain the Department's good reputation in all Services it performs.
- C. The Commonwealth has agreed to accept the Supplier's offer to provide the Services upon the terms and conditions contained in the Agreement.
- D. The Department and the Supplier have agreed to the following objectives for the Agreement:
 - (a) achieve and maintain an overall movement of clients from high-cost in-person channels to lower-cost self-service digital channels;

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- (c) achieve an overall improvement of Service Levels to meet industry standards and benchmarks.

THE PARTIES AGREE as follows:

1. INTERPRETATION

- 1.1 In the Agreement, unless the contrary intention appears:

- (a) words importing a gender include any other gender;
- (b) words in the singular include the plural and words in the plural include the singular;
- (c) clause headings are for convenient reference only and have no effect on the interpretation of the Agreement;
- (d) words importing a person include a partnership and a body, whether corporate or otherwise;
- (e) a reference to dollars is to Australian dollars;
- (f) reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision and any regulation and other instrument made under it;
- (g) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (h) the Schedules and any attachments form part of the Agreement;
- (i) reference to a Schedule (or an attachment) is a reference to a Schedule (or an attachment) to the Agreement, including as amended or replaced from time to time by agreement in writing between the Parties;
- (j) a reference to a clause of the Agreement is a reference to a clause of the Terms and Conditions;
- (k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (l) a word or expression defined in the *Corporations Act 2001* (Cth) has the meaning given to it in the *Corporations Act 2001* (Cth);
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) a reference to a party is to a party to the Agreement, and includes the party's executors, administrators, successors and permitted assignees and substitutes; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.2 Guidance on Construction of the Agreement

- 1.2.1 The Agreement records the entire agreement between the Parties in relation to its subject matter.
- 1.2.2 No variation of the Agreement is binding unless it is agreed in writing and signed by both Parties, in accordance with the Change process detailed in the Agreement.

- 1.2.3 Any reading down or severance of a particular provision does not affect the other provisions of the Agreement.
- 1.2.4 Subject to clause 6.4, where any conflict arises between the Terms and Conditions, or if there is any inconsistency between the provisions of the Agreement, the following descending order of precedence applies:
- (a) the Terms and Conditions (being clauses 1 to 52) and Schedule 1;
 - (b) Schedules 2, 4, 5 then 3;
 - (c) Annexes to Schedule 4;
 - (d) the remaining Schedules;
 - (e) any other Annex; and
 - (f) any referenced document,
- so that the provision in the higher ranked document will prevail, to the extent of the inconsistency.
- 1.2.5 A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Agreement or any part of it.

1.3 Trustee Supplier

- 1.3.1 If the Supplier acts as trustee of a trust, in relation to the Agreement:
- (a) it is liable both personally and in its capacity as trustee of that trust;
 - (b) it will not assign, transfer, mortgage, charge, release, waive, encumber or compromise, its right of indemnity out of the assets of that trust, but will retain and apply such indemnity only towards meeting its obligations under the Agreement;
 - (c) it will not retire, resign or by act or omission effect or facilitate a change to its status as the sole trustee of that trust; and
 - (d) it represents and warrants that:
 - (i) such trust has been duly established and currently exists;
 - (ii) it is the duly appointed, current and only trustee of that trust;
 - (iii) as such trustee it has the power to enter into and perform its obligations under the Agreement;
 - (iv) it has an unqualified right of indemnity out of the assets of that trust in respect of its obligations;
 - (v) conflict of interest and duty affecting it as such trustee (and/or its directors, if any) does not arise, OR otherwise is overcome by the terms of the relevant trust deed; and

- (vi) no breach of the relevant trust deed exists or would arise.

2. DEFINITIONS

- 2.1 In the Agreement unless the contrary intention appears, capitalised terms have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

3. AUTHORITY TO ACT

- 3.1 Other than as authorised under this clause 3, the Supplier is not authorised to, and must not:

- 3.1.1 enter into any contracts, commitments or other legal documents or arrangements in the Department's name, or on the Department's behalf; or

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- 3.2 The Supplier acknowledges and agrees that it is an independent contractor and is not, and must not purport to be, a partner or joint venturer of the Department.

- 3.3 The Supplier must ensure that it, and any Supplier Personnel who have been authorised by the Department to exercise the authorities (referred to for the purposes of this clause 3 as Designated Agents), exercises the authorities:

- 3.3.1 in good faith and in the best interests of the Department;

- 3.3.2 to the reasonable satisfaction of the Department;

- 3.3.3 diligently, effectively and to a high professional standard with due care and skill;

- 3.3.4 strictly in accordance with:

- (a) the requirements of the Agreement, including Schedule 13 (**Applicable Requirements**), and in particular all Laws, policy and practice requirements relating to the Commonwealth's financial management framework, including the *Public Governance, Performance and Accountability Act 2013* (Cth), the *Public Governance, Performance and Accountability Rule 2014* and the *Auditor-General Act 1997* (Cth); and

- (b) all guidelines and directions that the Department notifies from time to time to the Supplier; and

- 3.3.5 where expending moneys on behalf of the Department or committing the Department to the expenditure of funds, as a fiduciary.

- 3.4 The Supplier must comply with the Agreement and in particular with any restrictions on the scope of its authority set out in this clause 3 and as advised by the Department.

- 3.5 The Supplier must ensure that:

- 3.5.1 only Designated Agents are able to handle other CRF money as defined in the *Public Governance, Performance and Accountability Act 2013* (Cth) or perform services under the Agreement involving the handling of other CRF money; and
- 3.5.2 each Designated Agent acknowledges in writing substantially in the form set out at Schedule 15 (**Authority to Act Form**), that the Designated Agent commits to exercise his or her powers in accordance with this clause 3.
- 3.6 The Department may at its absolute discretion at any time, and for any reason, revoke, amend or suspend the Supplier's authorities referred to in this clause 3 and Schedule 2 (**Business Requirements and Supplier's Solution**) whether in whole or in part. Where the Department exercises its rights under this clause 3.6 the Parties will negotiate in good faith any changes to the Supplier's Solution ^{s47C} [REDACTED].

4. TERM OF AGREEMENT

- 4.1 Unless otherwise Terminated in accordance with the provisions of the Agreement or otherwise in accordance with Law, the Agreement takes effect on the date of Agreement execution (the "Effective Date") and will continue until the Expiry Date (the "Term").
- 4.2 The Term of the Agreement may be extended by the Department for Option Period(s) as specified in Schedule 1 (**Definitions and Agreement Particulars**), by providing the Supplier with at least three (3) months' written notice prior to the expiry of the Term of the Agreement. Any extension under this clause 4.2 must be on the then existing terms and conditions (except this clause 4.2), and as otherwise notified to the Supplier by the Department. The pricing for any extension period under this clause 4.2 must be in accordance with Schedule 5 (**Pricing**).
- 4.3 The Supplier must provide Exit Assistance in accordance with the provisions of Schedule 4 (**Transition Management**).

5. ANNUAL REVIEW OF THE AGREEMENT

- 5.1 At least every twelve (12) months during the Term of the Agreement, and commencing on the Effective Date, the Parties must conduct a review of the overall operation of the Agreement (an "**Annual Review**"). Such Annual Review, at a minimum, must include a review of:

- 5.1.1 the Service Levels and Service Credits specified in clause 9 below and Schedule 6 (**Service Levels and Service Credits**);
- 5.1.2 the Service Charges ^{s47C} [REDACTED] as described in Schedule 5 (**Pricing**); and
- 5.1.3 the Supplier's Solution to ensure that the Supplier's Solution continues to meet and fulfil the Services Requirements,

and, if such review establishes that the Supplier's Solution does not meet and fulfil the Services Requirements, the Supplier must implement changes to the Supplier's Solution as necessary to meet and fulfil such Services Requirements, without any change to the Service Charges ^{s47C} [REDACTED], in accordance with the Solution Change Procedure detailed in Schedule 8 (**Change Control**).

6. SCOPE OF THE SERVICES

6.1 In consideration of being granted the entitlement to receive payment of the:

6.1.1 Service Charge from the Department; or

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from the relevant Go-Live Date(s), the Supplier must ensure that the Supplier's Solution enables the Supplier to meet the Services Requirements, as the Services Requirements may evolve during the Term of the Agreement and as they may be supplemented, enhanced, modified or replaced in accordance with the Agreement, but excluding any services, responsibilities or functions that are specifically identified in the Agreement as the Department's responsibility or a third party's responsibility. The Services Requirements include:

- 6.1.3 the services, functions, requirements, and responsibilities specified in the Agreement;
 - 6.1.4 any services, functions, requirements, and responsibilities agreed as New Services in accordance with Schedule 8 (**Change Control**); and
 - 6.1.5 any services, functions, and responsibilities (including any incidental services, functions or responsibilities) reasonably and necessarily required for, or related to, the proper performance and provision of the services, functions and responsibilities set out in this clause 6.1.
- 6.2** The Supplier must fulfil the Services Requirements on and from the Effective Date in accordance with the Agreement, the Transition Plan detailed in Schedule 4 (**Transition Management**) and any other agreed implementation plans for any New Services. The successful completion of the Transition Plan must be determined in accordance with the provisions of Schedule 4 (**Transition Management**).
- 6.3** Without limiting clause 12.1, the Agreement does not give, or purport to give, the Supplier any rights of exclusivity in relation to the Services Requirements, New Services or services or requirements that are similar to the Services Requirements. The Department, at any time, may perform, or retain third parties to perform any Business Requirement or an element of a Business Requirement which forms part of the Services Requirements. Notwithstanding the foregoing, the Department acknowledges that removal of a Business Requirement from the scope of the Agreement in accordance with clause 13.2 will be treated as a partial Termination for Convenience. Where this occurs, the Supplier must continue to deliver all other Services that are not the subject of the partial Termination for Convenience to the standards specified in the Agreement.
- 6.4** The Supplier's Solution is set out in Schedule 2 (**Business Requirements and Supplier's Solution**). The Supplier must perform its obligations and responsibilities as described in the Supplier's Solution so that the Supplier's Solution fulfils the Services Requirements. In the event of a conflict between the Supplier's Solution and the Services Requirements, the Services Requirements take priority and prevail over the Supplier's Solution and the Supplier must amend the Supplier's Solution to suit the Services Requirements in accordance with the Change Control Procedure.

6.5 The Supplier must, amongst other things, fulfil the Services Requirements in accordance with the Transition timetable identified in Schedule 4 (**Transition Management**) and in accordance with all other requirements of the Agreement.

6.6 If, after a relevant Effective Date, either Party identifies any services, functions, requirements, or responsibilities which were performed within the twelve (12) month period immediately preceding such Effective Date by:

6.6.1 the Department;

6.6.2 an Incumbent Supplier; or

6.6.3 an Exiting Supplier's employees or its contractors who were displaced or transitioned to the Supplier or whose functions were displaced as a result of the Agreement,

and such service, function or responsibility is not specifically described in the Agreement but is required for the delivery or performance of the Services, the Parties must discuss and the Department may agree, as an Agreement Change, the inclusion of such service, function or responsibility as a Services Requirement through the Change Control Procedure.

6.7 Quality Management and Business Continuity

6.7.1 The Supplier must have a Quality Management System (QMS) certified to AS/NZS ISO 9001:2015 "Quality Management Systems - Requirements" or certified to an equivalent standard agreed to by the Department at the Effective Date.

6.7.2 The Supplier must maintain and apply the QMS specified in clause 6.7.1 at all times during the performance of the Services and must notify the Department Representative of any changes to the Certification status of the Supplier. In this clause, "Certification" means certification by an organisation accredited by the Joint Accreditation System for Australia and New Zealand (JAS-ANZ), or equivalent international or national certification body acceptable to the Department.

6.7.3 The Supplier must ensure that all approved subcontractors have quality management systems which are appropriate to the work required under the subcontract. The Supplier must ensure that all work performed under such subcontracts meets the requirements of the QMS to be applied by the Supplier under clause 6.7.1.

6.7.4 The Supplier must maintain records concerning the planning and verification of the quality of the Services for a minimum period of seven (7) years after final acceptance of the quality of the Services.

6.7.5 At any time during the Term, the Department may at its discretion, perform audit and/or monitoring activities in accordance with clause 34 in relation to the Services performed. If at any time the Department Representative determines by audit and/or monitoring or otherwise that, in relation to the production of the Supplies:

(a) the quality system being applied no longer conforms to the Certified QMS; or

(b) the Services produced do not conform to agreed standards,

then the Department Representative may notify the Supplier in writing of the details of the non-conformance and require the Supplier to correct the non-conformance within the period specified in the notice. The Supplier must take whatever action is necessary at no cost to the Department to correct a legitimate quality system/process/product non-conformance within the period specified in the notice issued under this clause 6.7.5 or within any period agreed in writing by the Department Representative and must notify the Department Representative immediately upon taking corrective action. The Department may perform an audit to verify that the non-conformance has been corrected.

- 6.7.6 The Supplier must develop a business continuity plan (**Business Continuity Plan**) by the Effective Date. The Business Continuity Plan must set out the detailed procedures and processes to be followed and actions to be taken if there is a failure or disruption of the Services. The Supplier must ensure that it is able to implement the Business Continuity Plan at any time in accordance with its terms.
- 6.7.7 Where requested by the Department, the Supplier must, within ten (10) Business Days, after the date of the request provide details of the Business Continuity Plan for the provision of the Services.
- 6.7.8 The Supplier must review the Business Continuity Plan on a regular basis (and in any event not less than once in every six (6) month period during the Term). The Department may require the Supplier to conduct additional reviews of the Business Continuity Plan where the Department considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the Business Continuity Plan.
- 6.7.9 The Supplier must undertake regular risk assessments and/or business impact analysis in relation to the provision of the Services not less than once every six (6) months and will provide the results of, and any recommendations in relation to, those risk assessments and business impact analyses to the Department promptly in writing following each review.

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8. TRANSITION SERVICES

8.1 Process of Transition

- 8.1.1 With effect from the Effective Date, the Supplier must comply with its obligations as set out in Schedule 4 (**Transition Management**). All Transition activities, Milestones and deliverables set out in the Agreement must be subject to the acceptance procedures set out in Schedule 4 (**Transition Management**). The Transition Plan must be amended during Transition in accordance with the process described in Schedule 4 (**Transition Management**).
- 8.1.2 The Supplier must be responsible for the overall management of the Transition and must:
- (a) keep the Transition on schedule, within cost and in accordance with the timetable and budget set out in the Transition Plan; and
 - (b) identify and resolve, or assist the Department in the identification and resolution of, any problems encountered in the timely completion of each task identified in the Transition Plan, whether or not the task is the responsibility of the Supplier.
- 8.1.3 From the Effective Date until completion of Transition, the Supplier must provide the Department with weekly progress Reports, commencing on the end of the first week from the Effective Date, that:
- (a) describe, in sufficient detail, the current status of the Transition;
 - (b) indicate the progress of the work being performed;
 - (c) identify any actual or anticipated problems or delays;

- (d) assess the impact of such problems or delays on the Supplier's fulfilment of the Services Requirements; and
- (e) describe all actions being taken or to be taken to remedy such problems or delays.

8.1.4 If the Supplier fails to fulfil any of its obligations with respect to Transition in accordance with the Transition Plan and this clause 8 by the dates specified in the Transition Plan, the Supplier must, at the Department's request and without prejudice to the Department's other rights and remedies in Law and under the Agreement (including under clause 11), arrange (at the Supplier's own cost) all such additional resources as are necessary to fulfil those obligations as early as practicable thereafter without any cost to the Department and without causing further loss or damage to the Department.

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9. SERVICE LEVELS AND SERVICE CREDITS

9.1 The Supplier must, at all times, achieve or exceed the Service Levels and Service Credits in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**). Without prejudice to the first sentence above of this clause 9.1, as a minimum, the Supplier must fulfil the Services Requirements:

- 9.1.1 with promptness, diligence, and in accordance with Good Industry Practice;
- 9.1.2 in a professional manner, and in accordance with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations fulfilling services requirements similar to the Services Requirements;
- 9.1.3 consistent with the Supplier's own standards for such services;
- 9.1.4 using efficiently the Assets, facilities, resources or services necessary to fulfil the Services Requirements;
- 9.1.5 without limiting Schedule 9 (**Human Resource Management**), using adequate numbers of Supplier Personnel that:
 - (a) are appropriately experienced, qualified and trained;
 - (b) are familiar, where appropriate, with the requirements set out in the Agreement; and
 - (c) must fulfil the Services Requirements with all reasonable skill, care and diligence; and

9.1.6 in compliance with clause 29.

9.2 The Parties anticipate that the Supplier's performance of the Services will improve over time and the Parties will co-operate to identify improvements and efficiencies in the fulfilment of the Services Requirements. In addition, at least annually during the Term, the Department and the Supplier must review the Service Levels and Service Credits and must make adjustments to them as appropriate to reflect improved performance capabilities associated with advances in the technology, processes and

methods used to fulfil the Services Requirements, in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**). Any Changes to the Agreement will be made in accordance with the Change Control Procedure.

- 9.3** Without prejudice to clause 9.2 above, the Parties expect and understand that the Service Levels and Service Credits must be subject to continuous improvement requirements in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**).
- 9.4** The Supplier must adopt and comply with the Department's technology quality and certification procedures as set out in or implemented pursuant to Schedule 3 (**Security**) and/or as notified by the Department from time to time. Any Changes to the Agreement will be made in accordance with the Change Control Procedure.
- 9.5** The Supplier must use the necessary measurement and monitoring tools and procedures required to measure and report the Supplier's performance against the applicable Service Levels and Service Credits. Such measurement and monitoring must permit reporting at a level of detail sufficient to verify the Supplier's compliance with the Service Levels and Service Credits.

10. FAILURE TO PERFORM

- 10.1** Subject to clause 9, if the Supplier commits a Service Level Default, the Supplier must take the steps identified in Schedule 6 (**Service Levels and Service Credits**). Notwithstanding the provisions of the preceding sentence of this clause 10.1, the Supplier must promptly but no later than 24 hours after the occurrence of the event that gave rise to the Service Level Default:
- 10.1.1 use Commercially Reasonable Efforts to preserve any data which may indicate the cause of the Service Level Default;
 - 10.1.2 arrange all such additional resources as are commercially reasonable to perform the Services in accordance with Schedule 6 (**Service Levels and Service Credits**) and Schedule 2 (**Business Requirements and Supplier's Solution**) as early as reasonably practicable thereafter and at no additional charge to the Department;
 - 10.1.3 use Commercially Reasonable Efforts to minimise the impact of the Service Level Default on the Department and any Clients, and to prevent it from recurring; and
 - 10.1.4 correct the Service Level Default and meet the relevant Service Level.
- 10.2** Without prejudice to any other rights and remedies available to the Department whether under the Agreement or at Law, the Supplier must notify the Department immediately upon becoming aware of any actual or anticipated event or other development which may have a material impact upon the Supplier's ability to comply with its obligations under the Agreement. This includes any relevant material control weaknesses identified by the Supplier's internal or external auditors. The Supplier must implement the recommendations in any such audit reviews as soon as practicable at its own cost and expense.

11. SERVICE LEVEL DEFAULT ACTIONS

11.1 If the Supplier fails to meet the required Service Levels in accordance with Schedule 6 (**Service Levels and Service Credits**), the Supplier must detail each failure to meet a Service Level (**Service Level Default**) in the Monthly Service Report.

11.2 To the extent that the Supplier is responsible for any failure to meet the required Service Level, the Supplier must, on the Department's written request but, subject to clause 10, comply with the Service Level Default Actions as determined and directed by the Department in accordance with Schedule 6 (**Service Level and Service Credits**).

11.3 The Supplier acknowledges and agrees that:

11.3.1 application of the Service Level Default Actions to the Supplier under the Agreement is without prejudice to any entitlement that the Department may have to damages at Law from the Supplier resulting from, or otherwise arising in respect of, the Supplier's failure to achieve a Service Level; any breach of the Agreement; or to any right of the Department to Terminate the Agreement pursuant to clause 42 below.

11.3.2 the Department will not apply Service Level Default Action on the Supplier for the Supplier's failure to achieve a Service Level to the extent that failure arose as a result of:

- (a) the Department's failure to fulfill its obligations under the Agreement;
- (b) any action taken by the Supplier at the authorized request of the Department; or
- (c) an event arising as a result of Force Majeure.

11.4 Service Credits

11.4.1 Following the expiry of any relevant Grace Periods that apply to the applicable Service Levels as set out in Schedule 6 (**Service Levels & Service Credits**), if the Supplier fails to meet the required Service Levels in accordance with Schedule 6 (**Service Levels & Service Credits**), the Supplier will detail any applicable Service Credits in each Monthly Service Report.

11.4.2 The Supplier acknowledges and agrees that the Service Credits are:

- (a) a price adjustment to take into account Services Requirements that are not properly delivered to the Department and are not an estimate of the Loss that may be suffered by the Department as a result of the Supplier's failure to meet any Service Level: and
- (b) are not a penalty.

11.4.3 Payment of any Service Credit by the Supplier under the Agreement is without prejudice to any:

- (a) entitlement that the Department may have to damages at Law from the Supplier resulting from, or otherwise arising in respect of, any such breach of the Agreement; or

- (b) to any right of the Department to terminate the Agreement pursuant to clause 42 below.

Any such damages at Law that the Department may be awarded must be reduced by an amount equal to any Service Credits which have already been deducted by the Department from the Services Charges in respect of such breach.

11.4.4 Subject to clause 11.4.5, the Department may notify the Supplier in writing that the Supplier must:

- (a) deduct one or more amounts totalling those Service Credits from the next tax invoice and any subsequent tax invoices as required; or
- (b) at the end of the Term pay any Service Credits to the Department by the date specified in the notice.

11.4.5 The Department may, at its absolute discretion and without limiting its other rights under the Agreement, at Law and otherwise, elect to receive improved Services to the value of any Service Credits detailed in Monthly Service Reports if the Supplier is able to and agrees to provide the improved Services.

11.4.6 Until and unless the Department at its absolute discretion, provides a written notification under clause 11.4.4 the applicable Service Credit is not a debt owing by the Supplier to the Department.

12. VOLUME OF SERVICES

12.1 Notwithstanding any volumes of usage that may be set out in Schedule 5 (**Pricing**), the Department does not guarantee to the Supplier any volume of usage of the Services Requirements by Clients during the Term.

13. CHANGES TO THE SERVICES

13.1 Changes to the Services and New Services

Unless otherwise set out in the Agreement, the introduction of New Services and/or changes to the Services Requirements which impact the Service Charges ^{s47C} must be agreed and implemented in accordance with clause 13.2 below and the Change Control Procedure in accordance with Schedule 8 (**Change Control**).

13.2 Removal of Business Requirements

13.2.1 By written notice to the Supplier from time to time, the Department may remove any Business Requirement (or part thereof) from the scope of the Services Requirements, in which case:

- (a) the removal of the relevant Business Requirement must be deemed to be a partial Termination for Convenience and the provisions of clause 42.2 will apply;
- (b) the Supplier will no longer be under an obligation to fulfil the Services Requirements for such Business Requirement (or part thereof) that has been removed from the date specified in the notice, although where this occurs, the Supplier must continue to deliver all other Services that

are not the subject of the partial Termination for Convenience to the standards specified in the Agreement; and

- (c) the Supplier must provide Exit Assistance in relation to the Business Requirement (or part thereof) being removed, as requested by the Department, in accordance with Schedule 4 (**Transition Management**).

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14. SERVICE CHARGES^{s47C} AND TAXES

- 14.1 Subject to this clause 14, Acceptance of any Services, the Services meeting the Service Levels and the Supplier fulfilling the Services Requirements:

14.1.1 the Department must pay to the Supplier the Service Charges; and

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in accordance with Schedule 5 (**Pricing**). The Supplier acknowledges that, subject to the remainder of this clause 14, no charges, disbursements or compensation payments will be paid by the Department to the Supplier under the Agreement, unless agreed pursuant to Schedule 8 (**Change Control**).

14.2 The Parties acknowledge and agree that:

14.2.1 the Service Charges ^{s47C} fully compensate the Supplier for performing all the Services; and

14.2.2 the Supplier is not entitled to charge:

(a) the Department any amount in addition to the Service Charges ^{s47C}

^{s47C}

(including any amounts associated with any changes in the way the Services are performed) unless:

(c) the Service Charges ^{s47C} have been varied in accordance with Schedule 5 (**Pricing**) and Schedule 8 (**Change Control**); or

(d) otherwise agreed by the parties.

14.3 The Supplier is not entitled to:

14.3.1 be paid Service Charges ^{s47C} more than once for any Services provided;

14.3.2 invoice any Service Charge for a Service for which it has charged ^{s47C}

^{s47C}

14.4 The Parties must use Commercially Reasonable Efforts to resolve any dispute regarding the Service Charges ^{s47C} within ten (10) Business Days after it being brought to the attention of the other Party. If the Parties fail to so resolve the dispute, such dispute must be determined in accordance with the Dispute Resolution Procedure in Schedule 7 (**Governance**).

14.5 Any legislative requirement to account for the Services in a different currency instead of and/or in addition to Local Currency, must be implemented by the Supplier at nil charge to the Department.

14.6 All expenses that the Supplier incurs in fulfilling the Services Requirements (including travel and lodging, document reproduction, shipping, and telephone expenses) are included in the Service Charges ^{s47C} as set out in the Agreement. Accordingly, expenses are not separately reimbursable by the Department or the Client except where otherwise agreed in writing between the Parties.

14.7 The Supplier will be liable for any applicable Local Sales Tax and other applicable taxes and duties at the prevailing rates payable by the Supplier on any goods and services used or consumed by the Supplier in its fulfilment of the Services

Requirements where the tax is imposed on the Supplier's acquisition or use of such goods or services in its fulfilment of the Services Requirements.

14.8 Taxes, Duties and Government Charges

14.8.1 The Supplier must be responsible for:

- (a) any taxes on its property or assets;
- (b) any taxes on its business; and
- (c) any taxes based on its net income or gross receipts.

14.8.2 The Supplier must be liable for GST, stamp duty and other indirect taxes that arise in respect of the Agreement or the Services.

14.8.3 Except as provided by this clause 14.8, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of the Agreement will be borne by the Supplier.

14.8.4 Unless otherwise indicated, the amounts paid by the Department (if any) as determined in accordance with the Agreement includes Goods and Services Tax (GST) for supplies made under the Agreement which are "taxable supplies" within the meaning of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

14.8.5 In relation to taxable supplies (if any) made under the Agreement, the Supplier will issue the Department with a tax invoice in accordance with the GST Act.

14.8.6 If one party (the Supplier) makes a taxable supply to the other party (the recipient) under the Agreement, on receipt of a correctly rendered invoice from the Supplier, the recipient must pay without set-off an additional amount to the Supplier equal to the GST imposed (or local Equivalent) on the supply in question.

14.8.7 No party may claim from the other party under the Agreement any amount for which the first party may claim an input tax credit.

14.9 Value For Money

If:

14.9.1 New Services are requested in accordance with clause 13.1 above; and/or

14.9.2 changes to the Agreement or the Services Requirements or Supplier's Solution are requested by either Party which impact the Service Charges ^{s4}
[REDACTED],

the Supplier must provide the Department with sufficient pricing information in accordance with the Pricing Template set out in Schedule 5 (**Pricing**) so that the Department can ensure that it and the Clients are receiving Value For Money from the Supplier in respect of the Service Charges ^{s47C} [REDACTED] being proposed by the Supplier for such New Services, changes to the Agreement or Services Requirements or Supplier's Solution and/or extension(s) to the Term.

14.10 Cost Element Spreadsheets

It is a condition of the Agreement that, as at the Effective Date, the Cost Element Spreadsheets is, in all material respects, a fair, complete and accurate representation of the basis on which the Supplier has calculated charges, revenues, costs and returns (including capital costs, financing costs and on-going revenue expenditure) in relation to the fulfilment of the Services Requirements and the achievement of the Service Levels as agreed during the Term. Unless expressly provided elsewhere in the Agreement, the Supplier must not be entitled to amend the Service Charges ^{s4} in Annex 5-1 (Service Charges ^{s47C}) to take account of errors or omissions in the Cost Element Spreadsheets or of circumstances which are (or should be) reflected in the Cost Element Spreadsheets. Any changes to Service requirements or service levels has to be through Change Control Procedure only as set out in Schedule 5 (**Pricing**) and Schedule 8 (**Change Control**) or as otherwise agreed by the parties.

15. PROCEDURES MANUAL

- 15.1** The Supplier must prepare and deliver to the Department a Procedures Manual regarding the Supplier's provision of the Services Requirements in accordance with this clause 15 for the Department's approval.
- 15.2** On or before the first Go Live Date, the Supplier must deliver to the Department a draft Procedures Manual for the Services provided under the Agreement. The Department must provide to the Supplier, the Department's comments on the draft within twenty (20) Business Days after the Department's receipt of the draft Procedures Manual. The Supplier must incorporate the Department's reasonable comments and suggestions and must finalise the Procedures Manual no later than one (1) month after first Go Live Date, unless the Parties agree in writing to an alternate date for finalisation.
- 15.3** The Procedures Manual must detail the operations, functions, activities, processes and procedures used and/or followed by the Supplier, Supplier Subcontractors and Supplier Personnel in the provision of the Services Requirements and the performance of the obligations of the Supplier under the Agreement.
- 15.4** The Supplier must, at least once every twelve (12) months during the term of the Agreement, update the Procedures Manual to reflect changes in the operations, functions, activities, plans, inventories, processes and/or procedures. Prior to their implementation, updates of the Procedures Manual must be provided regularly (and at least once every Agreement Year) to the Department for review and comment as described in clause 15.2.
- 15.5** The Procedures Manual (and all versions of it) is a Supplier Work Product. All rights, title and interest (including Intellectual Property Rights) in and to the Procedures Manual (and all versions of it) vest in the Supplier on creation. The Supplier grants to the Department, its contractors, agents and employees a perpetual, irrevocable, fully paid-up, royalty free, non-exclusive, transferable and worldwide license to use, modify, adapt, copy and communicate the Procedures Manual for government activities.

16. SERIOUS DELAY

- 16.1** Schedule 4 (**Transition Management**) sets out the Services Requirements relating to Transition and the Transition Plan. It also identifies the Go Live Dates for the provision of the Supplier's Solution and other associated Transition Milestone Dates for Transition.

16.2 The Supplier recognises that if it fails to meet the relevant Readiness Criteria for Go-Live in accordance with Section 6 and Annexes 4-4 and 4-5 of Schedule 4 (**Transition Management**) such that it is not ready to assume the fulfilment of the Services Requirements (a "**Serious Delay**"), such Serious Delay will have a material adverse impact on the business and operations of the Department (where such Serious Delay is within the control of the Supplier).

16.3 Subject to this clause 16 and clause 44, a Serious Delay will be treated as a failure to comply with Service Requirements. In the event of a Serious Delay, the Department may at its absolute discretion, without limiting the Department's right to recover Losses:

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16.3.2 require the Supplier to charge a reduced s47C Service Charge, calculated at the rate of a 5% reduction for every full week of the Serious Delay, for a period of four (4) months from the Go Live date; and/or

16.3.3 apply a Service Level Default Action to the Supplier.

16.4 If a Serious Delay continues for more than four (4) weeks, the Department may, at its option:

16.4.1 elect to remove the Service from the scope of the Agreement at no penalty or cost to the Department (such removal being deemed to be a partial Termination for Default); and/or

16.4.2 claim damages and/or pursue any other rights and remedies the Department may have under the Agreement or at Law for such Serious Delay.

16.5 The Supplier must detail any Serious Delay and action taken by the Department in each Transition Report

17. RESERVED

18. USE OF THIRD PARTIES AND COOPERATION WITH OTHER SERVICE PROVIDERS

18.1 Services Performed by the Department or Third Parties

18.1.1 Where third parties are retained by the Department to provide a service in substitution for all or an element of a particular Business Requirement that formed part of the Services Requirements as permitted by the Agreement, the Supplier must, to the extent and as agreed in accordance with the Change Control Procedure, integrate such service with the Supplier's Solution.

18.1.2 To the extent that:

- (a) the Department performs, or retains third parties to perform, any service in substitution for all or an element of a particular Business Requirement in circumstances permitted under the Agreement any other services related to the Services Requirements; and
- (b) such services require close or parallel working with the Supplier,

the Supplier must co-operate with the Department and such third parties so far as it is reasonably able to ensure that such services are able to be carried out in a co-ordinated, effective and timely manner. In the case of services that formed part of the Services Requirements, such Supplier co-operation must include, as necessary to enable such services to be performed, access to the Supplier Facilities, Assets, and other facilities reasonably necessary to enable such services to be performed subject always, to such third parties complying with the Supplier's reasonable security and confidentiality requirements.

18.2 Cooperation with Other Service Providers

18.2.1 The Supplier must co-operate (without any change to the Service Charges ^{s4} [REDACTED], unless agreed to in writing with the Department) to the extent that it is able to do so without impacting its ability to fulfil the Services Requirements with all relevant parties, including but not limited to the Department or third parties under contract to the Department to facilitate co-ordination of other services that impact upon or interact with the Services Requirements, including by providing access to the Supplier Facilities, Assets and other facilities reasonably necessary to enable such services to be performed subject always, to such third parties complying with the Supplier's reasonable security and confidentiality requirements.

19. CONSENTS, LICENCES AND PERMITS

19.1 The Supplier agrees to obtain and maintain throughout the Term, at its own cost, all consents, licences, permits and satisfy any other regulatory requirements which are necessary for the Supplier to fulfil the Services Requirements.

19.2 The Supplier agrees that the pricing in Schedule 5 (**Pricing**) covers all consents, licences and permits required to fulfil the Services Requirements and to provide the Supplier's Solution in Schedule 2 (**Business Requirements and Supplier's Solution**).

20. RESERVED

21. THIRD PARTY AGREEMENTS

The Supplier must obtain all Required Consents to complete the Transition and to fulfil the Services Requirements. The Supplier must pay any fees (e.g. transfer or upgrade fees) that may be required to obtain a Required Consent for any of the Third Party Agreements required by the Supplier to fulfil the Services Requirements. Subject to the Department's approval, if a Required Consent cannot be obtained, the Supplier may adopt any alternative approaches or workarounds that are necessary and sufficient to fulfil the Services Requirements without the relevant Required Consent.

22. PERSONNEL ISSUES

The Supplier must comply with the requirements set out in Schedule 3 (**Security**) and Schedule 9 (**Human Resource Management**), including those provisions relating to the appointment and removal of Supplier Personnel.

23. RESERVED**24. PERSONNEL ACCESS**

The Supplier must provide the Department with access to Supplier Personnel for the purposes of, and in accordance with, Schedule 12 (**Audit Access**) or such access as expressly identified elsewhere in the Agreement.

25. DIVERSITY / NO DISCRIMINATION / RESPECT FOR RELIGIOUS AND CULTURAL SENSITIVITIES

The Supplier must ensure that the Supplier Personnel act in accordance with the Australian Public Service Code of Conduct, in respect of the equality and diversity obligations, and in accordance with applicable Law in the place where the Services are being delivered. In relation to Enquiries, the Supplier must comply with the requirements in Schedule 2 (**Business Requirements and Supplier's Solution**) that relate to the Supplier providing the Supplier's Solution in a way that respects the religious and cultural sensitivities of Clients.

26. RESPONSIBILITY FOR SUBCONTRACTORS AND SUPPLIER AFFILIATES

26.1 The Supplier must provide a list to the Department by the Effective Date of the Supplier Subcontractors it is proposing to use or using to provide the Services under the Agreement. This list of Supplier Subcontractors is a deliverable of the Supplier under Schedule 9 (**Human Resource Management**). This list also identifies the Supplier Subcontractors that are Material Subcontractors at the Effective Date.

26.2 Except for Subcontractors that have already been approved by the Department, the Department will review the list of subcontractors provided in accordance with clause 26.1 and the Supplier must only use subcontractors that have been approved by the Department (such approval shall not be unreasonably withheld by the Department).

26.3 The Supplier remains liable for all acts or omissions of the Supplier Subcontractors (including Material Subcontractors) in accordance with the provisions of Schedule 9 (**Human Resource Management**).

26.4 The Supplier must comply with any obligations in respect of Supplier Subcontracts as are more particularly described in Schedule 9 (**Human Resource Management**).

27. CONFIDENTIALITY**27.1 Confidential Information**

27.1.1 Subject to clauses 27.1.5 and 27.2, a Party must not, without the prior written consent of the other Party, use or disclose any Confidential Information of the other Party. The Parties' Confidential Information is as set out in Schedule 16 (**Confidential Information**). The Supplier (including all Subcontractors) must protect and keep confidential all Client Data in its possession.

27.1.2 In giving written consent to use or disclose the Department's Confidential Information and Client Data, the Department may impose such conditions as it thinks fit.

27.1.3 The Department may at any time request the Supplier to obtain a written undertaking, relating to the use and non-disclosure of the Department's Confidential Information and Client Data from:

- (a) Supplier Personnel and Supplier Subcontractors; and/or
- (b) any person with a Third Party Interest,

This written undertaking will be substantially in the form of the Deed of Undertaking in relation to Personal Information and Confidential Information set out at Schedule 17 (**Confidentiality Undertaking**).

27.1.4 If the Supplier receives a request under clause 27.1.3, it must promptly arrange for all such undertakings to be given.

27.1.5 The obligations on the Parties under this clause 27.1 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a Party in order to comply with obligations, or exercise rights, under the Agreement;
- (b) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of Agreement related activities;
- (c) is disclosed to any Commonwealth Minister, or the Minister's advisers;
- (d) without limiting the application of this clause 27.1.5, is disclosed:
 - (i) in order to comply with the requirements of any regulatory body;
 - (ii) in order to respond to a request that is made by a Royal Commission, a body undertaking an administrative or statutory review, or an audit or inquiry (whether within or external to the Department), including a review, audit or inquiry that is conducted by the Commonwealth Auditor-General or the Office of the Australian Information Commissioner or the Privacy Commissioner; or
 - (iii) in order to respond to a request or direction of a House, or a request by a Committee, of the Parliament of the Commonwealth of Australia;
- (e) is authorised or required by Law to be disclosed;
- (f) is shared by the Department within the Department's internal organisation, or with another Agency of the Commonwealth of Australia, where this serves the legitimate interests of the Commonwealth of Australia; and
- (g) is in the public domain otherwise than due to a breach of this clause 27.1.

27.1.6 Where a person discloses Confidential Information to another person pursuant to this clause 27.1 the disclosing person must notify the receiving person that the information is confidential and obtain suitable confidentiality undertaking (wherever feasible and practical) on terms as those contained in this agreement.

27.1.7 The Supplier agrees to provide all reasonable assistance to the Department with regard to the release of the Supplier's Confidential Information where

disclosure may be required for the purposes of the Department's Parliamentary reporting and accountability obligations.

27.1.8 The obligations under this clause 27.1 continue in relation to the information described in this clause 27.1, commencing on the Effective Date and the Parties agree that these obligations survive for the relevant period of confidentiality set out in Schedule 16 (**Confidential Information**) notwithstanding the Termination of the Agreement.

27.2 Reporting Obligations and Disclosures

27.2.1 The Supplier will allow the disclosure of information related to the Agreement for various reporting and Commonwealth disclosure obligations. These disclosures include:

- (a) disclosure of procurement information for the Department's annual reporting purposes;
- (b) disclosure to the Parliament and its committees, as appropriate, in line with the Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters;
- (c) disclosure of information consistent with the *Freedom of Information Act 1982* (Cth);
- (d) disclosure of discoverable information that is relevant to a case before a court; and
- (e) disclosure of information as required under other legislation or Commonwealth policy.

27.2.2 Clause 27 survives the Termination or expiration of the Agreement.

27.3 Nothing in the Agreement must prevent the Department from using techniques, ideas and know-how gained during the Term in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information of the Supplier or an infringement by the Department of any Intellectual Property Rights of the Supplier.

28. INTELLECTUAL PROPERTY RIGHTS

28.1 Intellectual Property Rights Existing at the Effective Date

28.1.1 Except as specified in this clause 28, nothing in the Agreement will be deemed to assign or otherwise transfer to any Party any Intellectual Property Rights of the other Party existing at the Effective Date ("**Pre-Existing IPR**").

28.1.2 Neither Party must contest the ownership of any such Pre-Existing IPR belonging to the other Party prior to the Effective Date.

28.2 The Department Material and the Department Data

28.2.1 The Department will retain all right, title and interest in and to all Department Material and the Department Data, including all Intellectual Property Rights therein.

28.2.2 The Department hereby grants to the Supplier, the Supplier Subcontractors and Supplier Personnel a fully paid-up, non-exclusive, non-transferable, worldwide licence during the Term of the Agreement and Exit Period to use, operate, copy, reproduce, modify, adapt, maintain and enhance the Department Material and also encompasses the further versions of Department Software and Department Material as they are developed, only to the extent necessary and for the sole purpose of fulfilling the Services Requirements and/or performing its other obligations under the Agreement, with the right to grant non-transferable sub-licences thereunder to Supplier Subcontractors only for such purpose but does not include the right to commercialise. Where any Department material or Department Software is embedded in a Supplier Work Product the licence granted will be perpetual.

28.2.3 The Supplier and Supplier Subcontractors must cease any and all use of Department Material upon Termination of the Agreement or the date upon which the Supplier and Supplier Subcontractors ceases to require such Department Material for the purposes of the provision of Exit Assistance, whichever is the later.

28.2.4 The Supplier must ensure that any Supplier Subcontractors and Supplier Personnel comply with clause 28.

28.3 Supplier Software and Supplier Material

28.3.1 The Supplier hereby grants to the Department, its contractors, agents and employees a worldwide, fully paid-up, non-exclusive licence to use, operate and copy the Supplier Software and Supplier Material for the purpose only of the receipt by the Department of the benefit of the Services Requirements during the Term of the Agreement and any Exit Period. The licence granted under this clause 28.3.1 must take effect on the date that the relevant Supplier Software or Supplier Material is first used by or on behalf of the Supplier to fulfil the Services Requirements and also encompasses the further versions of the Supplier Software and Supplier Material as they are developed. The licence granted in this clause 28.3.2 does not include the right for the Department to commercialise the Supplier Software and Supplier Material. Where any Supplier Material or Supplier Software is embedded in a Department Work Product the licence granted will be perpetual.

28.3.2 In the event of:

- (a) a Termination for Default; or
- (b) the Department exercising its step-in rights under clause 46;

but excluding the expiry of the Agreement, the Supplier hereby grants to the Department, any Successor Supplier, and their respective contractors, agents and employees, a non-exclusive licence to use, operate, maintain and support the Supplier Software and Supplier Material for the purpose only of:

- (a) the provision of the Services subject to any step-in under clause 47;
- (b) the receipt by the Department of services similar to those fulfilled by the Supplier prior to the Termination Date; and/or

- (c) the Successor Supplier and its contractors, agents and employees providing services to similar to those provided by the Supplier prior to the Termination Date.

28.3.3 Such licence will:

- (a) commence on the Termination Date and will expire on the date twelve (12) months after the notice to Terminate or the notice of step-in is given; and
- (b) at no cost to the Department.

28.3.4 Supplier Software and Supplier Material will be listed in the inventory to be provided under clause 28.9.

28.4 Third Party Software and Third Party Material Provided by the Supplier

28.4.1 The Supplier must provide such Third Party Software and Third Party Material as is necessary or appropriate to fulfil the Services Requirements. Before installing any new Third Party Software or Third Party Material (as applicable) after the Effective Date, the Supplier must use Commercially Reasonable Efforts to obtain or provide (as applicable) a licence which enables the Department or its subcontractors or their permitted assignees, rights to use the Third Party Software and/or Third Party Material (as applicable), as required, during the Term of the Agreement and Exit Period for the purposes of receiving the benefit of the Services Requirements. The Supplier must be liable for the cost associated with obtaining the third party licences described in this clause 28.4.1. The Supplier must maintain copies of all third party licences obtained by the Supplier in accordance with this clause 28.4.1.

28.4.2 Subject to clauses 28.4.3 and 28.4.4, the Supplier must ensure that licences to use Third Party Software and Third Party Material (including Modifications to any Third Party Software that was already in use as at the Effective Date) must be in the Supplier's or a Supplier Group Company's name, provided that prior to the introduction of such Third Party Software or Third Party Material the Supplier uses Commercially Reasonable Efforts to obtain an obligation on the third party licensor at the Termination of the Agreement either to:

- (a) transfer, assign or novate the licence for such Third Party Software and Third Party Material to the Department or a Successor Supplier without the need for further consent, licence or payment of charges applicable to such transfer, assignment or novation (as applicable); or
- (b) grant to the Department or a Successor Supplier a licence for such Third Party Software and Third Party Material on terms substantially similar to the terms of the Supplier's existing licence for such Third Party Software and Third Party Material,

(each, a "**Licence Transfer Right**").

28.4.3 If the third party licensor refuses to grant a Licence Transfer Right; or requires an increased fee or premium for the granting of a Licence Transfer Right; or requires that the on-going fee following the exercise of the Licence Transfer Right for the Third Party Software or Third Party Material will be higher than

the fees payable by the Supplier prior to the Termination; then the Supplier must notify the Department and the Department will, at its option, either:

- (a) require the Supplier to agree to such a Licence Transfer Right, in which case the Department may pay the fee levied by the licensor, (and the Supplier must use its Commercially Reasonable Efforts to reduce such fee) and the on-going fees for such Third Party Software and Third Party Material must also be payable by the Department or a Successor Supplier (as applicable);
- (b) agree with the Supplier a commercially reasonable workaround, which may include the Supplier using alternative Software; or
- (c) waive the obligation to obtain a Licence Transfer Right.

28.4.4 clause 28.4.2 does not apply to Commercially Available Off The Shelf Software provided by the Supplier under the Agreement.

28.5 Work Product

28.5.1 The Department will own all rights, title and interest (including all Intellectual Property Rights) in and to all the Department Work Products created during the Term. The Department Work Products will become Department Material on creation.

28.5.2 The Department grants to the Supplier a licence to all Department Work Products in accordance with clause 28.3.

28.5.3 The Supplier will own all rights, title and interest (including Intellectual Property Rights) in and to all Supplier Work Products created during the Term, which will include any Work Products Modified by the Supplier from existing Supplier Software or Supplier Material. Supplier Work Products will be deemed to be Supplier Software or Supplier Material (as appropriate) and, unless otherwise agreed, the terms of clause 28.3 will apply to such Supplier Work Product.

28.5.4 If the Supplier proposes to Modify Third Party Software and / or Third Party Material in performing any Services under the Agreement, the Supplier must provide the Department with a written notice detailing the extent of such Modification, including details of the Intellectual Property Rights that would arise in such Modification (and, where appropriate, provide copies of any relevant third party licenses and other relevant information). The Department may, accept or reject the Supplier's proposal to Modify Third Party Software and/or Third Party Material. If the Department rejects the Supplier's proposal to Modify Third Party Software and/or Third Party Material, the Supplier must provide the Department with an alternative proposal for performance of the relevant Services that meets the Department's requirements.

28.6 Non-Infringement, Conformation to Specification and Conformation of Ownership

28.6.1 The Supplier must ensure that the Supplier Software, Supplier Material, Work Product, or any other product provided by the Supplier or any Supplier Subcontractor, and its use in accordance with the Agreement by the

Department and any Successor Suppliers, must not infringe any Intellectual Property Rights or moral right of any third party.

28.6.2 Subject to clause 28.6.1 above, the Supplier confirms (and must procure that the Supplier Subcontractors confirm) that:

- (a) it owns or has the right to use or otherwise exploit, and must, at all relevant times, own or have the right to use or otherwise exploit, the Assets, Supplier Material and Supplier Software to the extent necessary to provide the Services;
- (b) it must not infringe any third party's Intellectual Property Rights in fulfilling the Services Requirements; and
- (c) it has, and must at all relevant times have, full right to grant the licences and provide the Services and any Assets, Work Product and/or Software to the Department as set out in the Agreement.

28.7 Moral Rights Warranty

28.7.1 The Supplier warrants or undertakes that it has or will obtain from each author of all copyright works comprised in the deliverables an enforceable, irrevocable, perpetual and unconditional written consent in favour of the Supplier and the Department, to do, or allow the doing of, any act or omission (which does not include the falsely attributing the work) which, but for the consent, may infringe any "moral right" within the meaning of the *Copyright Act 1968* (Cth).

28.7.2 The consent referred to in clause 28.7 must be provided to the Department as and when required.

28.8 Reserved

28.9 Cataloguing

28.9.1 Within twenty (20) Business Days after the Effective Date, the Supplier must develop and maintain a continuously updated inventory of all Supplier Software, Supplier Material, Department Software, Department Material, Third Party Software, Third Party Material and all Work Products, including details which are to be agreed by the Parties during Transition In, which are used as part of, or in the fulfilment of, the Services Requirements hereunder from time to time. The Supplier must provide a copy of this inventory within seven (7) Business Days after a request from the Department or other period agreed by the Parties.

29. REGULATORY AND LEGAL COMPLIANCE

29.1 Without prejudice to clauses 29.3 and 29.4 below, the Supplier must fulfil the Services Requirements consistent with all Applicable Laws and regulatory requirements in any Country from which the Services Requirements are provided and the Supplier must make any necessary changes to the Supplier's Solution to comply with such requirements (without any increase to the Service Charges ^{s47C}). Regulatory requirements include (among others) data protection legislation, import and export restrictions and requirements imposed by regulatory authorities provided that each of which have effect within the relevant Country or affect trade or dealings

between the Commonwealth and the relevant Country. The Supplier must ensure that any such change must be implemented by the Supplier so as not to have an adverse effect on, or give rise to increased inconvenience in, the fulfilment of the Services Requirements.

29.2 Without limiting clauses 29.1 or 29.3 the Supplier must comply with Schedule 13 (**Applicable Requirements**).

29.3 The Parties acknowledge that any costs relating to compliance with any changes in Law after the Effective Date must, subject to this clause 29.3, be at the Supplier's cost. Where there has been a Discriminatory Change in Law after the Effective Date, the Supplier may submit a request to the Department for the Service Charges ^{s4} [REDACTED] to be changed (as applicable). The Supplier must provide evidence to justify this request and follow the Change Control Procedures set out in Schedule 8 (**Change Control**).

29.4 If the Supplier's obligation to fulfil a Services Requirement in a particular Country necessarily and unavoidably would result in a breach of Law of such Country, the Supplier must promptly notify the Department of this fact in writing and the Supplier will be relieved of its obligation to comply with such Services Requirement in such Country. The Parties will agree, through the Change Control Procedure, a Change to the relevant Services Requirement for such Country to ensure that the fulfilment of such Services Requirement will not breach the relevant Law. For the avoidance of doubt, this clause 29.4 must not apply if the breach in Law can be prevented by a change to the Supplier's Solution which still meets the relevant Services Requirement, provided that the Department and the Supplier agree to an increase or decrease in the Service Charges ^{s47C} [REDACTED], occasioned by such change to the Supplier's Solution.

30. PROTECTION OF PERSONAL INFORMATION

30.1 This clause applies only where the Supplier deals with Personal Information when, and for the purpose of, providing Services under the Agreement.

30.2 The Department retains responsibility for preparing its business requirements for the collection of Personal Information and Client Data and against which the Supplier will deliver the Services. The Supplier agrees to deal with and handle all Personal Information complying with relevant provisions of the *Privacy Act 1988* (Cth) (**Privacy Act**) (as amended from time to time) as applicable to the Supplier.

30.3 In particular, the Supplier undertakes to:

30.3.1 use, handle and deal with all personal information only for the purposes for which it is collected or otherwise comes into its possession under the Agreement;

30.3.2 protect all personal information in its possession and will not disclose it without the consent in writing of the Department, or unless required by Law;

30.3.3 not to do any act or engage in any practice that would breach the Privacy Act including any Australian Privacy Principles (**APPs**), which if done or engaged in by an Agency of the Commonwealth, would be a breach of the Privacy Act or APPs; and

30.3.4 to ensure that any employee of the Supplier who is required to deal with Personal Information for the purposes of the Agreement is made aware of the obligations of the Supplier set out in this clause 30.

30.4 The Supplier must promptly notify the Department Representative if the Supplier:

30.4.1 becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 30, whether by the Supplier or any Supplier Subcontractor;

30.4.2 becomes aware that a disclosure of Personal Information may be required by Law; or

30.4.3 receives a request or inquiry from the Privacy Commissioner or Information Commissioner, or by any individual to whom any Personal Information held by the Supplier or Supplier Subcontractors relates, in respect of Personal Information.

30.5 The Supplier agrees to ensure that any Supplier Subcontract entered into for the purpose of fulfilling its obligations under the Agreement contains provisions to ensure that the Supplier Subcontractor has the same awareness and obligations as the Supplier has under this clause 30, including the requirement in relation to Supplier Subcontracts.

30.6 The Supplier agrees to indemnify the Department in respect of any Loss suffered or incurred by the Department which arises directly or indirectly from a breach of any of the obligations of the Supplier under this clause 30, or a Supplier Subcontractor under clause 30.5.

30.7 The provisions of this clause 30 survive Termination of the Agreement.

31. PERFORMANCE GUARANTEE

31.1 The Supplier must, on the Effective Date, provide to the Department a performance guarantee for the performance of its obligations under the Agreement in the form set out in Schedule 14 (**Performance Guarantee**).

Note to Tenderers: The Department may, either as an alternative or in addition to the Performance Guarantee, require provision of an Unconditional Financial Undertaking. This will be determined based upon a risk assessment.

32. DATA PROTECTION AND LOSS

32.1.1 The Supplier must ensure that the Department can recover all the Department Data and Client Data held by the Supplier in accordance with clause 32.1.2 below.

32.1.2 The Supplier and the Department must each take all reasonable precautions (having regard to the nature of their other respective obligations under the Agreement) to protect and preserve the integrity of the Department Data and Client Data and to prevent any misuse, destruction, corruption or loss of the Department Data and Client Data.

32.1.3 The Supplier must not, without the prior written agreement of the Department, insert or allow the insertion into any Software of any code which would have

the effect of disabling or otherwise shutting down all or any portion of the Supplier's Solution, including during any period of Exit Assistance. For the avoidance of doubt, this clause 32.1.3 is not intended nor should be interpreted in any manner as being to prevent normal operation and maintenance activities, including prudent responses to emergency situations.

32.2 The Supplier must not delete or remove any copyright notices contained within or relating to the Department Data.

32.3 As part of the Services, the Supplier must:

32.3.1 comply with all applicable Laws (see Schedule 13 (**Applicable Requirements**));

32.3.2 advise the Department immediately upon becoming aware of the corruption or loss of the Department Data and/or Client Data held or controlled by the Supplier;

32.3.3 use Commercially Reasonable Efforts to ensure that, in the event of any corruption or loss of the Department Data and/or Client Data held or controlled by the Supplier howsoever caused, the Supplier is in a position to restore or procure the restoration of such the Department Data and/or Client Data; and

32.3.4 at the request of the Department in the event of any corruption or loss of the Department Data and/or Client Data and without prejudice to any other remedies that may be available to it either under the Agreement or otherwise, use Commercially Reasonable Efforts to restore or procure the restoration of the Department Data and/or Client Data to its state immediately prior to the said corruption or loss, or, at the direction of the Department, the data should be restored to another state, that is technically possible, as the Department sees fit to specify. The Supplier must be entitled to reasonable costs unless the corruption or loss of data was due to the Supplier's Default.

33. VALUE FOR MONEY

To ensure that the Service Charges ^{s47C} represent value for money to the Department ^{s47C} during the Term, the Parties have agreed and must comply with the pricing rates specified in Annex 5-1 and Annex 5-4 set out in Section 4.4 of Schedule 5 (**Pricing**) and continuous improvement provision in Section 2.3 of Schedule 6 (**Service Levels and Service Credits**).

34. AUDIT RIGHTS AND ACCESS

34.1 Without limiting clause 24, the Supplier will allow:

34.1.1 the Department or its nominee;

34.1.2 the Auditor-General or his or her nominee;

34.1.3 the Privacy Commissioner, the Information Commissioner and the FOI Commissioner or their nominees;

34.1.4 the Ombudsman or his or her nominee; and

34.1.5 any other persons, not being a Direct Competitor to the Supplier, authorised by the Department representative,

(the '**Auditors**') to access the Supplier's premises at all reasonable times and to inspect and copy all relevant documentation and records (subject to clause 34.3), however stored, in the Supplier's possession or control, for any review of the Supplier's performance of the Agreement.

Note to Tenderers: Please provide guidance in relation to who you would consider would be a Direct Competitor for the purposes of this audit clause (See Tender Response Form 9).

34.2 The rights referred to in clause 34.1 are subject to:

34.2.1 the provision of reasonable prior notice to the Supplier (excluding the case where the Department suspects that there has been a breach of Law);

34.2.2 compliance with the Supplier's reasonable security procedures;

34.2.3 each Party bearing its own cost arising out of or in connection with any access or inspection; and

34.2.4 if appropriate, execution of a deed of confidentiality relating to non-disclosure of the Supplier's Confidential Information.

34.3 Where an Auditor seeks access under clause 34.1 to documentation and records that include third party confidential information, the Supplier must:

34.3.1 advise the Auditor that such documentation and records contains third party confidential information;

34.3.2 advise the Auditor of the nature of the third party confidential information so that the Auditor can determine whether the information is relevant to the Agreement; and

34.3.3 if the information is relevant to the Agreement and the Auditor so requests, request the relevant third party to consent to the Auditor having access to such documentation and records.

If the relevant third party consents to the Supplier disclosing documentation and records that contains their confidential information, the Department will request the Auditor to execute a non-disclosure undertaking in respect of such documentation and records.

34.4 The Supplier must ensure that any Supplier Subcontract entered into on and from the Effective Date contains an equivalent clause granting the rights specified in this clause 34.

34.5 Clauses 34.1 and 34.2 apply for the term of the Agreement and for a period of seven (7) years after the date of Termination of the Agreement.

34.6 The Parties must further comply with the provisions of Schedule 12 (**Audit Access**).

35. DISPUTE RESOLUTION PROCEDURE

The Parties must comply with the dispute resolution provisions of Schedule 7 (**Governance**).

36. SECURITY REQUIREMENTS

36.1 General Security Obligations

- 36.1.1 The Supplier must take all measures necessary to comply with the Department's security requirements and policies which are applicable to the Supplier in the performance of the Services, including those set out in Schedule 3 (**Security**).
- 36.1.2 The Supplier must take all reasonable measures, by the display of notices or other appropriate means, to ensure that its employees and subcontractors have notice that all provisions referred to in clause 36.1.1 will apply to them and will continue to apply to them, if so applicable, after the Termination of the Agreement.
- 36.1.3 The Supplier agrees that it must provide full details of all of its Supplier Personnel (and all negotiations, terminations and new appointments) to the Department and must permit the Department or its authorised representatives to vet, investigate and interview any of the Supplier Personnel if required. The Supplier further agrees to promptly replace without cost to the Department any of the Supplier Personnel who may not be acceptable to the Department.
- 36.1.4 The Supplier agrees and understands that it and its Supplier Personnel may be or become subject to such other prohibitions, restrictions, conditions or covenants as the Department may impose and which may relate to security issues. The Supplier further understands that the Department may inspect and impose requirements as to the security of the Supplier's premises and its delivery of documents arrangements.

36.2 Security Reports

- 36.2.1 The Supplier must comply with the security requirements as set out in Schedule 3 (**Security**).
- 36.2.2 The Supplier agrees to notify the Department promptly in writing if it becomes aware that a Security Incident has occurred.
- 36.2.3 The Supplier agrees to supply written security Reports to the Department in a form and at the times specified in Schedule 3 (**Security**), including the following information:
- (a) all Security Incidents, including steps taken by the Supplier to address these;
 - (b) perceived security problems;
 - (c) where appropriate, recommendations for security improvements;
 - (d) proposed and actual changes of Supplier Personnel; and
 - (e) any other information which the Department reasonably requires.

36.3 Supply Chain

- 36.3.1 The Department's business is conducted in an ICT environment that is critical to national security operations. To ensure the Integrity of Services (including

Supplier Material, Supplier Software and Supplier Personnel that are provided to the Department or the Supplier utilises for the purposes of the Agreement), the Supplier must:

- (a) provide the Department with visibility of its local and global supply chains as they relate to the Services. This includes reporting each quarter on Subcontractor arrangements, alliances and partnerships with third party suppliers;
- (b) provide to the Department any additional supply chain information in a timely manner at the request of the Department at any time during the Term;
- (c) allow the Department to conduct a due diligence and risk review of suppliers and supply chain elements to acquire information regarding the Services and firmware and ensure security risks are adequately addressed. The Department, in its sole discretion, may require the Supplier to remove suppliers and/or supply chain elements as a result of any due diligence or risk review. Changes during the Term will be undertaken through the process set out under clause 57;
- (d) not deliver Services, store Department Material, the Department Data, Client Data or information about the Department on equipment or Software from specific suppliers when requested by the Department;
- (e) provide the Department on a Monthly basis forward plans associated with infrastructure upgrades and changes, Software patching and version upgrades or changes for Software aspects of the Services, whether shared with the Supplier's other customers or dedicated to the Department;
- (f) protect the Integrity of the Services, Department Material, the Department Data, Client Data and information about the Department from unauthorised interference;
- (g) provide all information to the Department, as requested, to assist in the assessment of national security risk;
- (h) use secure shipping and warehousing for information systems, information system components, and information technology products;
- (i) seek to minimise the time between purchasing decisions and delivery of information systems, information system components, and information technology products; and
- (j) employ independent analysis and penetration testing against delivered information systems, information system components, and information technology products.

37. FACILITIES

- 37.1** The location of the Service Centres where the Supplier will deliver Services are listed in Schedule 10 (**Facilities**).

37.2 If the Supplier wishes to relocate the performance of any part of the Supplier's Solution from the locations identified in Schedule 10 (**Facilities**) at the Effective Date then the Department may authorise (such authorisation not to be unreasonably withheld) the Supplier to do so provided that the Supplier:

37.2.1 provides reasonable notice to the Department;

37.2.2 develops a transition plan reasonably acceptable to the Department that is designed to avoid any disruptions or degradation in the fulfilment of Services Requirements;

37.2.3 demonstrates to the Department's reasonable satisfaction that the Supplier will be able to meet the Service Levels and Service Credits set out in Schedule 6 (**Service Levels and Service Credits**) at the new location and the new location must meet those requirements set out in Annex 10-1 to Schedule 10 (**Facilities**) and the Department's data security, confidentiality and privacy requirements as set out in the Agreement;

37.2.4 complies with any other reasonable requirement of the Department in relation to such relocation; and

37.2.5 must be responsible for the relocation costs in respect of any relocation under this clause 37.1.

37.3 The Supplier must comply with all health and safety measures and reasonable security requirements of the Department, and must procure that all of its employees, agents and Supplier Subcontractors must likewise comply with such requirements.

38. WARRANTIES AND REPRESENTATIONS

38.1 The Supplier warrants and represents that, throughout the Term of the Agreement:

38.1.1 at all times, the Supplier has full capacity and authority and all necessary consents (including, but not limited to, where its procedures so require, the consent of the Supplier Parent Company) to enter into and to perform the Agreement and that the Agreement is executed by a duly authorised representative of the Supplier;

38.1.2 the Supplier has the full capacity and authority to grant the licences referred to in clause 28 above and will secure such authorisation from third parties relative to their products;

38.1.3 the Supplier is not aware as at the Effective Date of anything within its reasonable control which might or will adversely affect its ability to fulfil its obligations under the Agreement;

38.1.4 the Supplier's signing, delivery and performance of the Agreement must not constitute:

(a) a violation or any Law, judgement, order or decree;

(b) a material default under any material contract by which it or any of its assets are bound; or

(c) an event that would, with notice or lapse of time, or both, constitute such a default;

- 38.1.5 the Services will be supplied and rendered with all due skill, care, promptness and diligence by appropriately experienced, qualified and trained personnel and executed in a professional manner;
- 38.1.6 the Supplier will discharge its obligations hereunder with all due skill, care and diligence, including but not limited to Good Industry Practice;
- 38.1.7 Reserved;
- 38.1.8 at the time of entering into the Agreement that it does not have an adverse judicial decision against it (not including decisions under appeal), including in relation to employee entitlements that it has not paid;
- 38.1.9 any equipment, materials or other substances which is used by the Supplier to fulfil the Services Requirements, for the purposes of the Agreement, are not a safety hazard; and
- 38.1.10 all statements and representations made by or on behalf of the Supplier in writing or recorded in written form shared between the Parties during the procurement process between the Supplier and the Department were, to the best of the Supplier's knowledge and belief, true, complete and accurate at the time that they were made or given, and that by the Effective Date the Supplier advised the Department in writing of any material fact, matter or circumstance of which the Supplier has been aware since making such proposals or responses which would render any such statement or representation false or misleading.
- 38.2** Each warranty must be construed as a separate warranty and must not be limited or restricted by reference to or inference, from, the terms of any other warranty or any other terms of the Agreement. Except as expressly stated in the Agreement, all warranties and conditions, whether express or implied by statute, common-law or otherwise (including but not limited to fitness for purpose) are hereby excluded to the extent permitted by Law.
- 38.3** The Department has entered into the Agreement based on the Supplier's warranties in this clause 38 and the representations made by the Supplier in the RFT process.

39. INDEMNITY BY SUPPLIER

- 39.1** The Supplier indemnifies the Department against:
- 39.1.1 Loss or liability incurred;
- 39.1.2 Loss of or damage to property of the Department or any other person;
- 39.1.3 Loss incurred in dealing with any Claim against the Department including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Department; or
- 39.1.4 the personal injury or death of any person,
- arising from
- 39.1.5 any act or omission by the Supplier or Supplier Personnel in connection with the Agreement;

39.1.6 any breach by the Supplier of its obligations or warranties under the Agreement;

39.1.7 the use by those indemnified of Department Material, Supplier Material or Supplier Software provided by it (including in respect of any infringement of Intellectual Property Rights in that Material),

irrespective of whether there was fault on the part of the person whose conduct gave rise to that Loss or liability.

39.2 The Supplier's liability to indemnify the Department under clause 39.1 will be reduced proportionately to the extent that any breach of the Agreement by the Department or any act or omission involving fault on the part of the Department contributed to the relevant Loss or liability.

39.3 Without limiting the operation of clause 39.2, the right of the Department to be indemnified under clause 39.1 is in addition to, and not exclusive of, any other right, power or remedy provided by law.

39.4 In this clause 39, "the Department" includes officers and employees of the Department.

39.5 This clause 39 will survive expiration or termination of the Agreement.

39.6 Anticipation of Infringement

If any item or component used by the Supplier to fulfil the Services becomes, or in either Party's reasonable opinion is likely to become, the subject of an infringement or misappropriation Claim, the Supplier must, in addition to its obligation to indemnify the Department (and in addition to the other rights the Department may have under the Agreement), promptly at the Supplier's expense:

39.6.1 use its Commercially Reasonable Efforts to secure the right to continue using the item on terms which are reasonably acceptable to the Department, such acceptance not to be unreasonably withheld or delayed; or

39.6.2 replace or Modify the item to make it non infringing, provided that any such replacement or Modification does not degrade the performance or quality of the affected component of the Services Requirements.

39.7 Enforcement of Indemnities

It is not necessary for a Party to incur expense or make payment before issuing notification under clause 39.8.

39.8 Indemnification Procedures

39.8.1 Each Party will notify the other in writing as soon as it knows or becomes aware of any event arising in connection with the Agreement which it believes may give rise to a Claim under clause 39.1.

39.8.2 The Supplier must, at its own expense, conduct any litigation and/or any negotiations arising from and has the exclusive right to defend, conduct and settle all Claims or proceedings in connection therewith, provided that the Supplier:

- (a) complies with the Legal Services Directions 2017 when conducting litigation on behalf of the Department;
- (b) consults with the Department in relation to such litigation and/or negotiations arising therefore; and
- (c) does not settle such Claim or demand without the Department's consent unless the settlement incorporates an absolute release of the Department from all liability in connection with such Claim or demand.

39.8.3 The Department will, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Claim or demand made or action brought against the Department to which the above may apply. The Supplier must reimburse the Department for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in so doing.

39.9 The Department's Obligations

39.9.1 The Department agrees that in the performance of the Agreement it will:

- (a) comply with all Laws;
- (b) promptly notify the Supplier if it becomes aware that Supplier Personnel or Clients are at risk;
- (c) ensure that the Supplier is authorised to receive visa applications under the *Migration Act 1958* (Cth); and
- (d) provide assurance (upon request from the Supplier) that the Department has provided the Supplier with the appropriate Intellectual Property licenses required to enable the Supplier to use Department Software and Department Material in accordance with the Agreement.

40. LIABILITY

40.1 Each Party's liability to the other is unlimited for all Losses in respect of, arising out of, or as a consequence of, a Claim relating to:

- 40.1.1 personal injury (including sickness and death);
- 40.1.2 loss of, or damage to property;
- 40.1.3 an infringement of Intellectual Property Rights;
- 40.1.4 liabilities owed to a third party;
- 40.1.5 any breach of security, confidentiality or privacy;
- 40.1.6 any Wilful Misconduct, or grossly negligent act or omission; or
- 40.1.7 any criminal activity or a breach of any Law.

40.2 Wilful Misconduct, for the purposes of this clause 40, means an act or omission that is taken:

40.2.1 intentionally to achieve a wrongful purpose;

40.2.2 without legal or factual justification; and

40.2.3 in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit,

and includes any act or omission that constitutes repudiation of the Agreement.

40.3 For the purposes of this clause 40, a **grossly negligent** act or omission is an act or omission done with reckless disregard of a legal duty, whether consciously or not, for the consequences of the act or omission.

40.4 To the extent permitted by Law, each party's liability to the other is capped in respect of each single occurrence or a series of related occurrences arising from a single cause the aggregate for all Losses, in respect of, or arising out of, or as a consequence of Claims not encompassed within clause 40.1 to an amount equal to \$[insert].

Note to Tenderers: The liability cap will be determined based on an overall risk assessment.

40.5 The parties acknowledge that the indemnities under clause 39 are subject to the liability caps specified in this clause 40 (other than indemnities in respect of the uncapped events specified in clause 40.1).

40.6 The parties acknowledge this clause 40 will not prevent either party from recovering amounts owing under the Agreement for Services delivered in accordance with the Agreement or in respect of any liquidated damages.

40.7 Notwithstanding any other clause in the Agreement, other than clause 40.1, neither party is liable to the other party under the Agreement for:

40.7.1 punitive or exemplary damages of any kind;

40.7.2 loss of goodwill, business profits, revenue or opportunity arising out of, or in connection with, the Agreement; or

40.7.3 consequential or indirect Losses, meaning losses that could not have reasonably been supposed to have been in the contemplation as the probable result of breach of the Agreement by either party, at the time they made the Agreement.

40.8 Reducing Liability

40.8.1 The liability of a party (**Party A**) for Losses incurred by another Party (**Party B**) in respect of, arising out of or in connection with a cause of action will be reduced proportionally to the extent that Party A demonstrates that:

(a) any negligent act or omission of Party B (or of its Personnel); or

(b) any the failure by the other Party (Party B) to comply with its obligations, warranties and responsibilities under the Agreement,

contributed to those Losses provided that Party B's failure to comply is not caused or contributed to by any act or omission of Party A.

40.9 Review of limitation

40.9.1 The parties acknowledge that the limitation of liability (if any) specified in this clause 40 may be subject to review in the event that the Agreement is varied or extended.

40.9.2 For the avoidance of doubt, a party may require a review of the limitation of liability specified in this clause 40 as a condition of its acceptance to a variation request, but only for the purpose of achieving a proportionate adjustment to reflect any alteration to that party's risk exposure arising out of that variation.

41. INSURANCE

41.1 Throughout the Term, the Supplier must take out and maintain, or cause to be taken out and maintained, with reputable insurance companies, policies and levels of insurance as reasonably appropriate to reflect the Supplier's obligations, liabilities, risk profile or risk exposure under the Agreement.

Note to Tenderers: Please provide details of your insurance policies as part of your Tender (See Tender Response Form 7).

41.2 Subject to clause 41.3, the insurance policies effected and maintained in accordance with this clause 41, must include:

41.2.1 professional indemnity insurance which covers the liability of the Supplier at general law arising from a negligent breach of duty owed in a professional capacity. Such insurance must have a retroactive date of no later than the earlier of the commencement of the provision of Services under the Agreement or any earlier preparatory work by the Supplier;

41.2.2 public and products liability insurance which covers the Supplier and Supplier Personnel for their respective liabilities caused by, arising out of, or in connection with the negligent performance of any obligation or the exercise of any right under the Agreement.

41.2.3 employer's liability insurance for such insured amount as required by Law in the relevant Country and if no statutory requirement exists for an amount sufficient to cover any injury or Loss suffered or incurred by any person engaged in work by the Supplier under the Agreement including Supplier Personnel;

41.2.4 property and contents loss or damage insurance covering all Department Facilities, Department Assets and any other property of the Department and the Supplier which is material to the Supplier's ability to perform its obligations under the Agreement (including data), against the risks of loss, damage or destruction caused by all insurable risks (including theft, malicious damage, fire, lightning, storm, flood and tempest) for their full reinstatement or replacement value and business interruption insurance for an indemnity period of not less than 12 months increased cost of working and loss of profit.

41.2.5 fidelity guarantee insurance which covers the Supplier and Supplier Personnel for their respective liabilities caused by, arising out of, or in connection with fraudulent or dishonest acts or omissions committed by employees of the Supplier; and

41.2.6 any other insurance required by Law in the relevant Country.

41.3 This clause 41 does not require the Supplier to effect and maintain insurance in respect of Uninsurable Risks.

41.4 If requested by the Department, the Supplier must provide to the Department a certificate or broker's letter evidencing the existence of current insurance policies effected and maintained in accordance with this clause 41.

41.5 The Supplier must notify the Department of any material reduction in the level of, or cover provided by, the insurance policies effected and maintained in accordance with this clause 41.

41.6 If any of the insurances effected and maintained in accordance with this clause 41 are on a "claims made" basis, the Supplier must continue to maintain such insurance after the end of the Term for such period as is required by Law in the relevant Country to meet a potential claim relating to a matter occurring during the Term.

41.7 The Supplier must ensure that Supplier Subcontractors are insured as is appropriate (including with respect to the amount of insurance, types of insurance and period of insurance) given the nature of services or work to be performed by them, in a manner consistent with the requirements of this clause 41 as if they were the Supplier.

42. TERMINATION

42.1 The Department's Right to Terminate for Default

42.1.1 The Department may at any time by notice in writing Terminate the Agreement (in whole or in part) as from the date of service of such notice if:

- (a) the Supplier commits a Material Default which is capable of being remedied and the Supplier fails to remedy such Material Default within thirty (30) days after notice by the Department (or such longer period if agreed by the Parties);
- (b) the Supplier commits a Material Default which is not capable of being remedied as advised by the Supplier;
- (c) the Supplier commits repeated Defaults of its duties or obligations under the Agreement, the cumulative effect of which must be deemed to be a Material Default of the Agreement, and the Supplier must have failed to remedy such Material Default within thirty (30) days after notice by the Department (or such longer period if agreed by the Parties);
- (d) an Insolvency Event occurs in respect of the Supplier;
- (e) the Supplier, any Affiliate of the Supplier or Subcontractor that fulfils Services Requirements under the Agreement, brings the Department into serious disrepute or otherwise commits willful act or deliberate omission (or is subject to any other event) reasonably likely to bring the

Department into serious disrepute or to materially adversely affect the Department's reputation, or the Supplier's reputation is damaged in such a way as to make it unsuitable to provide the services under the Agreement, provided in each case, that the Department has given the Supplier notice of the circumstances giving rise to such disrepute and has given the Supplier reasonable opportunity to rectify such circumstances (which are capable of being rectified);

- (f) there is a Change of Control of the Supplier which, in the Department's reasonable opinion, is to the Department's detriment or is likely to be to the detriment of the Department except where the Department:
 - (i) has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) has not served its notice to Terminate within six (6) months after the date on which the Department was given notice of the Change of Control; or
- (g) if the Supplier breaches clause 49.1 and the Department exercises its option to Terminate the Agreement in accordance with clause 49.2 below

42.2 The Department's Right to Terminate for Convenience

42.2.1 The Department, by giving written notice to the Supplier, may Terminate the Agreement for convenience (in whole or in part) at any time during the Term, as of the date specified in the notice of Termination.

42.2.2 For the avoidance of doubt, any removal of a Business Requirement from the scope of the Agreement pursuant to clause 13.2 above must be deemed a Termination for Convenience under this clause 42.2.

42.2.3 Where there has been a termination under clause 42.2, the Department will be liable only:

- (a) to pay Service Charges relating to those parts of the Requirement completed before the effective date of termination; and
- (b) to reimburse any expenses reasonably and unavoidably incurred by the Supplier and directly attributable to the termination or reduction based on the amounts specified in Schedule 5 (Pricing) where the Supplier substantiates these amounts to the satisfaction of the Department.

42.2.4 The Department is not liable to pay compensation under clause 42.2 in an amount which would, in addition to any amounts paid or due or becoming due to the Supplier under this contract, together exceed the Service Charges.

42.2.5 Upon receipt of a notice of termination (in whole or in part), the Supplier agrees to:

- (a) stop (in whole or in part) work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction (in whole or in part); and

(c) continue work on any part of the Services not affected by the notice.

42.2.6 Where there has been a reduction in the scope of the Services, the Supplier's entitlement to receive Service Charges ^{s47C} [REDACTED] for those aspects of the Services will, unless there is agreement in writing to the contrary, abate in accordance with the reduction in the Services.

43. CONSEQUENCES OF TERMINATION

43.1 In the event that the Agreement is Terminated the following provisions must apply:

43.1.1 notwithstanding the provisions of clauses 43.1.2 and 43.1.3 below, the Supplier must provide the Exit Assistance in accordance with and subject to Schedule 4 (**Transition Management**);

43.1.2 except for obligations that are expressed to survive termination the Department's obligations to the Supplier cease on the Termination Date of the Agreement. To avoid doubt the Department will continue to have obligations under clause 42.2 and Schedule 4 (**Transition Management**); and

43.1.3 the Supplier must deliver up to the Department or destroy, at the sole discretion of the Department, all property owned by the Department, including but not restricted to the Department Data, in its possession.

43.2 The Termination of the Agreement will not prejudice or affect any right of action or remedy which must have accrued or must thereafter accrue to either Party.

43.3 The Survival clauses must continue to have full force and effect for as long as is necessary to protect the interests of either Party.

44. RELIEF EVENTS

44.1 The Supplier is entitled to relief from its obligations under and in accordance with this clause 44 if to the extent that a Relief Event:

44.1.1 is the direct cause of a delay in achieving any Transition Milestone on or before the relevant associated Milestone date or in accordance with the Transition Plan or any other plan agreed between the Parties pursuant to the Agreement; and/or

44.1.2 prevents or delays the Supplier from observing and/or performing any of its obligations under the Agreement.

44.2 The following events and/or circumstances will not be regarded as a Relief Event that relieves liability under clause 44.1:

44.2.1 an event or circumstance within the scope and specification of any back-up, contingency planning, business continuity or disaster recovery services set out in the Agreement except to the extent that those Services are themselves directly affected by a Relief Event;

44.2.2 a failure by a Supplier Subcontractor to perform any obligation owed to the Supplier unless and to the extent that the failure is directly caused by a Relief Event directly affecting that Supplier Subcontractor; or

- 44.2.3 an event or circumstance caused by a Default (or other act or omission) by the Supplier or a Supplier Subcontractor unless such Default (or other act or omission) is itself due to a Relief Event.
- 44.3** As soon as reasonably practicable (and in any event within five (5) Business Days after the Supplier became aware that the Relief Event has caused or is likely to cause delay and/or adversely affect the ability of the Supplier to observe and/or to perform its other obligations) the Supplier must give the Department notice (a “**Relief Notice**”) of:
- 44.3.1 its claim for relief from its obligations under the Agreement, including full details of the nature of the Relief Event;
- 44.3.2 the date of occurrence;
- 44.3.3 its likely duration (if known) and the proposed period of relief;
- 44.3.4 its causes and any supporting information of which the Supplier or any of its staff or agents are aware; and
- 44.3.5 a preliminary indication of the relief claimed.
- 44.4** Relief Notices may be given by e-mail (provided that the e-mail is confirmed by telephone), and must set out clearly the information available to the Supplier at that time as to the nature and consequences of the event.
- 44.5** The Department will consider the claim for relief in good faith and in accordance with this clause 44 and;
- 44.5.1 where the Department is reasonably satisfied that the Relief Notice relates to a Relief Event, will accept the same; and
- 44.5.2 where the Relief Notice relates to a Relief Event that is a Force Majeure Event, the Parties will mutually discuss on steps, if any, that can be taken to mitigate the Force Majeure Event.
- As soon as reasonably practicable after despatch to the Department of the Relief Notice, the Supplier must give full details of the relief claimed.
- 44.6** The Parties must consult at regular intervals to agree any steps to be taken, and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by a Relief Event (on a temporary or permanent basis). At all times following the occurrence of a Relief Event and during its subsistence, the Parties must use Commercially Reasonable Efforts to prevent and mitigate the effect of the Relief Event and must take all steps (in accordance with Good Industry Practice) to overcome or minimise the consequences of the Relief Event.
- 44.7** The Department must notify the Supplier in writing of the period of relief to be granted (the “**Relief Period**”). The Department must act reasonably in assessing the appropriate duration of the Relief Period to be granted.
- 44.8** **Reserved**
- 44.9** The Supplier must notify the Department if, at any time, it receives or becomes aware of any further information relating to the Relief Event. The Supplier must give details

of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

44.10 The Supplier must notify the Department as soon as practicable after the Relief Event ceases or no longer causes the Supplier to be delayed or adversely affect the Supplier's ability to observe and/or to perform the impacted obligations. Following such notification, the Agreement must continue to be performed on the terms existing immediately prior to the occurrence of the Relief Event).

44.11 Without limiting the other rights or remedies of any Party, and subject to clause 44.12, if a Relief Event substantially prevents or delays the Supplier's performance necessary for the performance of a function reasonably identified by the Department as critical:

44.11.1 for more than three (3) consecutive Business Days, then the Department may at its option procure, or direct the Supplier to procure, that function from a third party service provider for the period of the Relief Event, in which case the Supplier must be liable for meeting the costs of the third party service provider and in which case the change to the Service Charge s47C will be agreed between the Department and the Supplier; and

44.11.2 for more than thirty (30) consecutive Business Days, then the Department may remove the affected function from the scope of the Agreement or Terminate the Agreement in whole or in part as of the date specified by the Department in a written notice of Termination to the Supplier, provided that the Department must at all times exercise this right in good faith having regard to the scale of the Relief Event and the extent to which it impacts the Department and such Termination shall be deemed to be either partial or whole Termination for Convenience.

44.12 The Department may exercise any of its rights in clause 44.11 immediately if it is clear to both Parties that the effect of the Relief Event on the critical function is not capable of being remedied or avoided within the relevant time period specified in clause 44.11.

44.13 Reserved

44.14 For the avoidance of doubt, nothing in this clause 44 must affect the Supplier's obligations to provide back-up, contingency planning, business continuity or disaster recovery services that the Supplier has agreed to provide to the Department under the Agreement or any other agreement for such services.

45. TRANSITION MANAGEMENT

The Supplier must provide all transitioning assistance in accordance with Schedule 4 (**Transition Management**) for all Transition phases.

46. STEP-IN

46.1 Each of the following is a Step-In Event:

46.1.1 an event set out in clause 42.1 **Error! Reference source not found.;**

- 46.1.2 an event or circumstance, which arises out of or in connection with the Services that poses a serious threat to, or causes or will cause material damage or material disruption to the performance of the Services;
- 46.1.3 a delay in the Supplier meeting an obligation that is, in the Department's reasonable opinion, a critical obligation and the Supplier does not start to remedy the relevant delay within 24 hours after being given Notice by the Department requiring the Supplier to remedy the relevant event or fails to remedy the relevant event within 20 Business Days (or such longer period as agreed by the Department) after being given that Notice; or
- 46.1.4 the Supplier seeks to terminate the Agreement other than in accordance with its legal rights under the Agreement or at Law, or otherwise repudiates or abandons the Agreement.
- 46.2** If:
- 46.2.1 a Step-In Event occurs; and
- 46.2.2 the Department has given notice to the Supplier in accordance with clause 46.3,
- then a Step-In Party may exercise all or any of the Step-In Powers set out in clause 46.5 (**Step-In Right**).
- 46.3** The notice referred to in clause 46.2.2:
- 46.3.1 must be in writing and must specify:
- (a) the Step-In Event which has triggered the Step-In Right;
 - (b) the date on which the relevant Step-In Party proposes to commence performing the relevant Services; and
 - (c) the date on which the relevant Step-In Party proposes to cease performing the relevant Services; or
- 46.3.2 may be given orally if the Department considers that the Step-In Event requires urgent remedy or action and there is insufficient time to issue a written notice under clause 46.3.1, but if given orally must be followed within 24 hours by a written notice under clause 46.3.1.
- 46.4** The Step-In Right is without prejudice to the Department's other rights in respect of a Step-In Event, including its rights under clauses 42 and 47.
- 46.5** A Step-In Party may in performing the Services referred to in the Notice under clause 46.2.2, do anything in respect of those activities that the Supplier could do including:
- 46.5.1 enter into and remain in possession of all or any of the Assets;
- 46.5.2 operate and manage all or any of the Assets;
- 46.5.3 exercise all or any of the Supplier's rights, and perform all or any of the Supplier's obligations in connection with the performance of the Services or under or in relation to any approval held by the Supplier as if it were the Supplier, to the exclusion of the Supplier;

46.5.4 exercise all or any of the Supplier's rights, and perform all or any of the Supplier's obligations under or in relation to the Agreement or any other agreement to which the Supplier is a party;

46.5.5 take any other action that the Step-In Party considers necessary or desirable; and

46.5.6 do anything incidental to the matters listed in clauses 46.5.1 to 46.5.5,

(Step-In Powers).

46.6 Noting that the Supplier may prefer to continue to provide the Services, the Department may require the Supplier to seek to procure the affected Services from a third party supplier, in which case the Supplier will promptly nominate a third party supplier to provide the Services for the Department's approval. If the Department:

46.6.1 approves the Supplier's nominated third party supplier, the Supplier will engage that third party supplier to provide the Services; or

46.6.2 rejects the Supplier's nominated third party supplier, the Department may direct the Supplier to use a different third party supplier.

46.7 The Supplier must:

46.7.1 cooperate with the Step-In Party in the exercise of the Step-In Powers to enable the Step-In Party to exercise the Step-In Powers effectively and expeditiously; and

46.7.2 ensure that its Related Bodies Corporate and Supplier Personnel do likewise.

46.8 Without limiting clause 46.7, the Supplier must:

46.8.1 allow the Step-In Party to access and use:

(a) all or any of the Assets including Material and Software;

(b) the Supplier Personnel; and

(c) any information the Step-In Party reasonably requires;

46.8.2 comply with all reasonable directions given by the Step-In Party;

46.8.3 return to the Department the Department Material, and remove Supplier Personnel and equipment or other items from the Supplier Facilities, as directed by the Department; and

46.8.4 ensure that its Subcontractors do likewise,

to enable the Step-In Party to exercise its Step-In Powers.

46.9 The Supplier irrevocably appoints the Department as its attorney with full power to exercise the Step-In Powers (or to delegate the exercise of the Step-In Powers to another Step-In Party).

- 46.10** The Supplier's obligations under the Agreement will be suspended to the extent and for such period as is necessary to permit the Department to exercise its Step-In Rights.
- 46.11** The Step-In Party may cease to exercise the Step-In Rights at any time and, in any event, must cease to exercise its Step-In Rights once the relevant breach has been remedied or the Step-In Event or circumstance has ceased (as applicable).
- 46.12** The Department must give written Notice to the Supplier of the date on which the Step-In Party will cease to exercise the Step-In Powers (which Notice must be given by the Department to the Supplier a reasonable time prior to the date the Step-In Party proposes to cease to exercise the Step-In Powers).
- 46.13** The Department and the Supplier must consult with each other with the intention of ensuring that the transition from the Step-In Party ceasing to exercise the Step-In Powers to the Supplier resuming the performance of the relevant Services is effected without interruption to the Services.
- 46.14** Upon the Step-In Party ceasing to exercise the Step-In Powers, the Supplier must resume the performance of the relevant Services in accordance with the Agreement (unless the Agreement has been terminated).
- 46.15** If the Step-In Event is:
- 46.15.1 an event of the kind referred to in clauses 46.1.1 or 46.1.3; or
 - 46.15.2 an event or circumstance of the kind referred to in clause 46.1 in circumstances where the Supplier including its Related Bodies Corporate and Supplier Personnel has caused or contributed to the event or circumstance,
- then:
- 46.15.3 subject to clause 46.15.4, to the extent and for such period as the Supplier is prevented from providing the Services as a result of the Step-In Party exercising the Step-In Rights, the Department must pay to the Supplier the Service Charges in respect of any Services which are performed by the Supplier; and
 - 46.15.4 the Department will be entitled to deduct from the Service Charges an amount equal to:
 - (a) the Loss suffered or incurred by the Department in connection with the Step-In Party exercising the Step-In Right; and
 - (b) the cost savings derived by the Supplier from not providing the relevant Services (assuming the Supplier would have provided a level of service in accordance with the Agreement).
- 46.16** If the Loss suffered or incurred by the Department in connection with the Step-In Party exercising the Step-In Right exceeds the Service Charges, the Department or its nominee may recover from the Supplier the difference between the amount of the Loss and the Service Charges.
- 46.17** If the Step-In Event is an event or circumstance of the kind referred to in clause 46.1.2 or 46.1.4 in circumstances where the Supplier including its Related Bodies Corporate and Supplier Personnel have not caused or contributed to the event or

circumstances, to the extent and for such period as the Supplier is prevented from providing the Services as a result of the Step-In Party exercising the Step-In Rights, the Department must pay to the Supplier:

46.17.1 the Service Charges in respect of any Services which are affected by the Step-In Party's exercise of the Step-In Rights, less an amount equal to the cost savings derived by the Supplier from not providing the relevant Services (assuming the Supplier would have provided a level of service in accordance with the Agreement); and

46.17.2 the extra costs reasonably incurred by the Supplier (substantiated to the Department's satisfaction) as a result of the Step-In Party's exercise of the Step-In Rights.

46.18 The Supplier acknowledges that, subject to clauses 46.15 and 46.17, the Department will have no liability to the Supplier, and the Supplier will not be entitled to make any claim against the Department arising out of or in connection with:

46.18.1 any conduct, delay, negligence or breach of duty in the exercise or non-exercise of a Step-In Power; nor

46.18.2 for any Loss which results,

except where it arises from any wilful misconduct or any unlawful or negligent act or omission on the part of the Department or its nominee.

46.19 The Supplier acknowledges that a Step-In Party is not under any obligation to remedy the Step-In Event nor to overcome the risk or mitigate any consequences resulting from the Step-In Event.

46.20 If:

46.20.1 the event giving rise to the Step-In Event has not been remedied or resolved within a period of 40 Business Days after the date that the notice under clause 46.2.2 was given, or such later date for remedy or resolution agreed to by the Department and the Supplier; or

46.20.2 in the Department's reasonable opinion it is unlikely that the Supplier will be able to continue to perform the Services upon the remedy or resolution of the Step-In Event,

46.21 If the Agreement is terminated in the circumstances referred to in clause 46.20 the Supplier is not entitled to any termination compensation or payment whatsoever, including any payment in relation to the remaining period of the Agreement.

46.22 No action of the Department or its nominee under this clause 46 limits or otherwise affects the Supplier's liability to the Department with respect to any default or non-performance by, or other liability of, the Supplier under the Agreement.

47. REMEDIATION

47.1 If:

47.1.1 except in case of occurrence of any Relief Event, where any Default or non-performance by the Supplier under the Agreement in relation to the Service Requirements or Services substantially and adversely affects the performance

of any critical the Department function for more than five (5) Business Days unless otherwise agreed in the Business Continuity Plan; and

47.1.2 such applications, system or Service is part of or provided from a Supplier Facility,

then in respect of such Supplier Facilities, the Department will be entitled to appoint a representative (who may be Department Personnel or a third party other than a Direct Competitor of the Supplier) who, in addition to having all of the rights of an auditor under clause 34, will have the right to:

47.1.3 have reasonable, free and safe access to the Supplier Facility, if necessary during the hours of operation of the Supplier Facility, for the purpose of examining and assessing the provision of the Services from the Supplier Facility, interviewing Supplier Personnel at the Supplier Facility, having the Supplier perform tests under observation and viewing performance data; and

47.1.4 receive reasonable cooperation from the Supplier; and

47.1.5 make reasonable recommendations to the Supplier in relation to the Supplier Facility to address such Default or non-performance by the Supplier under the Agreement.

47.2 Where the representative appointed by the Department under clause 47.1, makes a recommendation to the Supplier under clause 47.1.5, the Supplier must promptly comply with any reasonable recommendation. If the Supplier disputes the reasonableness of a recommendation, it must provide reasons why. If the Supplier disputes a recommendation, then the dispute will be referred for resolution in accordance with the Dispute Resolution Procedures in Section 7 of Schedule 7 (**Governance**).

47.3 In exercising such rights and determining the reasonability of recommendations, the Supplier will take into account the interests of all clients deriving services from the Supplier Facility, the Department's objectives set out in the Recitals of the Agreement and the Supplier's obligations under the Agreement.

47.4 The Supplier must immediately notify the Department if a third party exercises or threatens to exercise any step-in rights of the third party in relation to a Supplier Facility, giving details of the name of the third party, the reason for the step-in or threatened step-in, and the likely effect on the Services.

47.5 If a third party exercises step-in rights in relation to a Supplier Facility, the Supplier:

47.5.1 is responsible for providing continuity of service in relation to the Services, regardless of the third party step-in;

47.5.2 will meet forthwith with the Department to demonstrate how it will satisfy its obligations under this clause 47;

47.5.3 unless contractual arrangements made prior to the Effective Date will prevent the Supplier from doing so, will not comply with, and will dispute, any recommendation of the third party that will adversely impact on the Services; and

47.5.4 in dealing with the third party, will take into account the interests of all clients deriving services from the Supplier Facility, including the Department, as well as the Department's objectives and the Supplier's obligations under the Agreement.

47.6 If the Department appoints representatives under clause 47.1 or a third party exercises step-in as mentioned in clause 47.4 in relation to a Supplier Facility at similar times, then, in addition to the foregoing, the Supplier will (to the extent that such Supplier Facility is within its control) treat all clients fairly and equally, and will not give preference to another client over the Department, subject to contractual arrangements made prior to the step-in event relating to the allocation of resources.

47.7 The Supplier must pay all costs associated with arising under or in connection with this clause 47.

48. HEALTH AND SAFETY

48.1 Nothing in the Agreement releases either Party from their obligations under any requirements of Law in relation to health and safety to provide prior written notice of any health or safety hazards associated with equipment, material or other substances supplied by either Party, or facilities used in the performance of work under the Agreement in accordance with Schedule 13 (**Applicable Requirements**).

48.2 Environmental Requirements

48.2.1 Without limiting Schedule 13 (**Applicable Requirements**), the Supplier must perform the Services in such a manner as to conserve appropriately energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

48.2.2 The Supplier must perform its obligations under the Agreement in such a way that:

- (a) the Department is not placed in breach of; and
- (b) the Department is able to support and to make full use of the supplies for the purposes for which they are intended without being in breach of,

any applicable environmental legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and any local environmental legislation where the Services are provided.

49. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

49.1 The Supplier must neither:

49.1.1 offer or give or agree to give any person employed by the Department any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Agreement or any other agreement with the Department or for showing or forbearing to show favour or disfavour to any person in relation to the Agreement; nor

- 49.1.2 enter into the Agreement if in connection with it commission has been paid or agreed to be paid to any person employed by the Department or acting on its behalf by the Supplier or on the Supplier's behalf or to the Supplier's knowledge, unless before the Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Department.
- 49.2** Subject to clause 49.4, in the event of any breach of this clause 49 by the Supplier or by anyone employed by the Supplier or acting on the Supplier's behalf, including Supplier Subcontractors, (whether with or without the knowledge of the Supplier), the Department may summarily Terminate the Agreement for Material Default in accordance with clause 42.1.1 above by notice in writing to the Supplier. Provided always that such Termination must not prejudice or affect any right of action or remedy which must have accrued or must accrue thereafter to the Department and provided always that the Department may recover from the Supplier the amount or value of any such gift, consideration or commission.
- 49.3** The decision of the Department must be final and conclusive in any dispute, difference or question arising in respect of:
- 49.3.1 the interpretation of this clause 49; or
- 49.3.2 the right of the Department under this clause 49 to Terminate the Agreement; or the amount or value of any such gift, consideration or commission.
- 49.4** Without limiting clause 42.1.1(e), if the breach of clause 49 is committed by a member of the Supplier or Supplier Subcontractor Personnel without the Supplier's knowledge and despite the Supplier having used Commercially Reasonable Efforts to prevent such breach, the Department may terminate the Agreement for Material Default in accordance with clause 42.1.1 unless the Supplier terminates the employment of such member of the Supplier Personnel or has the Services of such Subcontractor personnel terminated and demonstrates to the Department's reasonable satisfaction that it has implemented adequate controls and procedures to prevent subsequent reoccurrences of such breach.

50. NOTICES

- 50.1** Notices given under the Agreement must be in writing in the English language and made by an authorised officer of the Department or the Supplier and delivered to the Department Representative or Supplier Representative, as the case may be, in accordance with the Contract Particulars specified in Schedule 1 (**Definitions and Agreement Particulars**).
- 50.2** The representative and address of either Party may be altered by notice given in accordance with clause 50.1 above. The Parties must, from time to time, provide each other with a list of personnel designated as "authorised officers".
- 50.3** A notice given in accordance with clauses 50.1 will be deemed to be received:
- 50.3.1 if delivered at the recipient's address during normal business hours, on the date of delivery;
- 50.3.2 if sent by prepaid international registered post, seven (7) days after the date of posting;

50.3.3 if sent by an express courier with a reliable system for tracking delivery, on the date of delivery to the recipient; and

50.3.4 if sent by fax or electronic mail to the fax number or electronic mail address specified above (as may be altered by giving notice in accordance with this clause 50) during normal business hours, and provided that a confirmation copy is sent by the Party giving notice in accordance with a method specified above, upon receipt as evidenced by production of a satisfactory transmission report by the fax machine which sent the fax or receipt by the notifying Party of a confirmation of receipt report in respect of the electronic mail sent, as appropriate, or if outside the normal business hours of the recipient, then at the beginning of the recipient's next Business Day.

51. GENERAL PROVISIONS

51.1 Except as otherwise expressly stated in the Agreement, the Supplier may not assign, novate or otherwise transfer its rights or transfer its obligations under the Agreement without the prior written consent of the Department.

51.2 The Department is entitled to assign, novate, or otherwise transfer its rights or obligations under the Agreement or any part thereof to any other Agency of the Commonwealth provided that any such assignment, novation or transfer must not increase the burden of the Supplier's obligations pursuant to the Agreement.

51.3 Notwithstanding the provisions of clause 27, in the event of an assignment, novation or transfer (as applicable) pursuant to clauses 51.1 or 51.2 above, the Department is entitled to disclose to any transferee any Confidential Information of the Supplier which relates to the fulfilment of the Services Requirements by the Supplier or their Successor Supplier. In such circumstances, the Department will authorise the transferee to use such Confidential Information only for purposes relating to the fulfilment of the Services Requirements. Where the Department provides Supplier Confidential information to such transferee in accordance with clause 51, the Department shall impose such conditions or requirements (such as the giving of a written undertaking by that party) as it considers necessary.

51.4 Any change in the legal status of the Department will not affect the validity of the Agreement. In such circumstances, the Agreement will bind and inure to the benefit of any successor body to the Department.

51.5 Except with the written consent of the other Party neither Party must make any press announcements or publicise the Agreement in any way, such consent must not be unreasonably held or delayed. Both Parties will take all reasonable steps to ensure the observance of the provisions of this clause 51.5 by all their servants, employees, agents and consultants. The Department is entitled to publicise the Agreement in accordance with any legal or quasi legal obligation upon the Department, including any examination of the Agreement by the Australian National Audit Office or Privacy Commissioner. Where the Supplier is required to release the Agreement in accordance with any legal or quasi legal obligation, in such circumstances the Supplier must seek prior approval from the Department.

51.6 Independent Supplier and Relationship between the Parties

51.6.1 The Supplier, in providing the Services, is acting as an independent contractor to the Commonwealth. Nothing in the Agreement, including references to "partnership", creates any relationship of agent and principal, partnership, or

employer and employee between the Parties or between one of the Parties and the other Party's personnel, agents, employees or subcontractors.

51.6.2 Nothing in the Agreement must give either Party any authority to act or make representations or commitments on behalf of the other Party or to create any contractual liability to a third party on behalf of the other Party.

51.7 Amendments and Variations

The Agreement will not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative of the Department and by the duly authorised representative of the Supplier acting on behalf of the Department and the Supplier, respectively, as applicable.

51.8 Entirety of Agreement

The Agreement constitutes the entire agreement between the Parties as to its subject matter; and in relation to that subject matter, and, in the absence of fraud, supersedes any prior warranties, indemnities, undertakings, conditions, understanding, commitments or agreements between the Parties, whether oral or written.

51.9 Governing Law

51.9.1 Without prejudice to the Supplier's obligations under clause 29.1, the construction, performance and validity of the Agreement is governed by the laws of the Australian Capital Territory, Australia and each party submits to the non-exclusive jurisdiction of the courts of that jurisdiction.

51.9.2 Subject to clause 51.9.1 above and the procedures set out in the Dispute Resolution Procedures in Section 8 of Schedule 7 (**Governance**) (to the extent such procedures are applicable), the Parties irrevocably agree that the courts of the Australian Capital Territory have, and the Parties submit to, the exclusive jurisdiction of the courts of the Australian Capital Territory to settle any disputes which may arise out of or in connection with the Agreement and that accordingly any proceedings arising out of or in connection with the Agreement must be brought in such courts located in Canberra, Australian Capital Territory and the Parties waive any objection to proceedings in any such courts on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum.

51.10 No Waiver

No delay, neglect or forbearance on the part of either Party in enforcing against the other Party any term or condition of the Agreement will either be or be deemed to be a waiver or in any way prejudice any right of that Party under the Agreement.

51.11 Severance

If any provision of the Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision will be severed and the remainder of the provisions hereof will continue in full force and effect as if the Agreement had been executed with the invalid provisions eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Agreement, the Department and the Supplier must immediately commence good faith negotiations to remedy such invalidity.

51.12 Counterparts

The Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement between the Parties.

52. CONFLICTS OF INTEREST

52.1 The Supplier must take appropriate steps to ensure that neither it nor any Supplier Subcontractor nor any member of the Supplier Personnel is placed in a position where there is or may be a Conflict of Interest (or potential Conflict of Interest). The Supplier must provide to the Department all details known to the Supplier of any Conflict of Interest (or potential Conflict of Interest) which arises or which may arise.

52.2 Where the performance of the Supplier's obligations involves advice as to selection of alternative courses of action or advice upon the acquisition of software, goods, services and/or rights, the Supplier must give such advice in an impartial, independent and unbiased manner and in the best interests of the Department, irrespective of the interests of the Supplier, or of any benefit to the Supplier (or any Supplier Group Company) arising directly or indirectly from such advice. The Supplier must require each Supplier Subcontractor to comply with such obligation as it may relate to interests or potential benefit to that Supplier Subcontractor or any Affiliate of that Supplier Subcontractor.

Executed as a deed

SIGNED, SEALED AND DELIVERED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
by its duly authorised delegate in the presence of:

_____	_____
[INSERT NAME]	<i>Signature</i>
[INSERT POSITION]	
[INSERT BRANCH/DIVISION]	
Department of Immigration and Border Protection	____/____/____
	<i>Date</i>

in the presence of

_____	_____
<i>(Please print name of Witness)</i>	<i>Signature</i>
	____/____/____
	<i>Date</i>

Executed by **[INSERT SUPPLIER NAME]**
in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

_____	_____
<i>Director Signature</i>	<i>Director/Company Secretary Signature</i>
_____	_____
<i>Name</i>	<i>Name</i>
____/____/____	____/____/____
<i>Date</i>	<i>Date</i>

SCHEDULE 1
DEFINITIONS AND AGREEMENT PARTICULARS

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2. PART A – AGREEMENT PARTICULARS 2

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DEFINITIONS AND AGREEMENT PARTICULARS**1. INTRODUCTION****1.1 Overview of Schedule 1**

- 1.1.1 This Schedule 1 (**Definitions and Agreement Particulars**) provides the agreement particulars and the definitions for the Agreement. The definitions in this Schedule 1 (**Definitions and Agreement Particulars**) apply across the entire Agreement unless a specific contrary intention appears.

1.2 Structure of Schedule 1

- 1.2.1 This Schedule 1 (**Definitions and Agreement Particulars**) comprises the following:
- (a) **Part A** – Agreement Particulars; and
 - (b) **Part B** – Definitions.

2. PART A – AGREEMENT PARTICULARS

Department Representative	[INSERT POSTION] Address: 6 Chan Street, Belconnen, ACT, 2617, Australia Telephone: [INSERT TELEPHONE NUMBER] E-mail: ces.procurement@border.gov.au
Supplier Representative	[INSERT SUPPLIER REPRESENTATIVE NAME] Address: [INSERT SUPPLIER ADDRESS] Telephone: [INSERT SUPPLIER TELEPHONE] E-mail: [INSERT SUPPLIER EMAIL]
Expiry Date	[INSERT EXPIRATION DATE].
Option Period	Any number of periods of no less than 3 months duration each, unless otherwise agreed by the parties, but not exceeding four years in aggregate.

3. **PART B – DEFINITIONS**

Note to Tenderers: This Part B – Definitions will be based upon the definitions contained in Attachment A – Glossary.

SCHEDULE 2
BUSINESS REQUIREMENTS AND SUPPLIER'S SOLUTION

CONTENTS

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BUSINESS REQUIREMENTS AND SUPPLIER'S SOLUTION

Note to Tenderers: This Schedule 2 will be based on **Attachment B – Statement of Requirement** and the successful Tenderer's solution (if any).

SCHEDULE 3
SECURITY

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SECURITY**1. INTRODUCTION**

- 1.1** This Schedule 3 (**Security**) describes the Department's security requirements that the Supplier is required to meet or exceed during the Agreement Term in the fulfilment of the Services Requirements.
- 1.2** In this Schedule 3 (**Security**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SECURITY POLICY

- 2.1** The parties will agree to, and the Supplier must adopt and comply with, a security policy that is supported by appropriate organisational, security and technical security standards (the "**Security Policy**") which:
- (a) is consistent with and complies with the relevant aspects of the Department Security Policy and Standards which will be provided to the Supplier by the Department;
 - (b) conforms to appropriate Australian Government security policies, standards and requirements as are available in the public domain or are provided to the Supplier by the Department;
 - (c) conforms to ISO/IEC 27002:2013 (Information technology -- Security techniques -- Code of practice for information security management) and/or ISO/IEC 20000-1:2012 "Information technology - Service management"; or their equivalent as these standards are updated from time to time;
 - (d) reflect Good Industry Practice; and
 - (e) meet the other security requirements set out in this Schedule 3 (**Security**) and any other part of the Agreement.
- 2.2** The Supplier acknowledges that the key elements of the Security Policy are to:
- (a) provide appropriate protection for all Department Personnel, Assets and Clients;
 - (b) ensure the continuity of the Department's business; and
 - (c) protect people, premises, property and information (in all its forms) against attack, theft, disclosure, unauthorised access, corruption or non-availability, whether by deliberate or accidental means.
- 2.3** The Supplier acknowledges that one of the key principles of the Security Policy is to manage risks, rather than prescribe fixed solutions. The Supplier will therefore be required to apply judgement in discharging its responsibilities and agree with the Department what constitutes "appropriate protection". However, in doing so, the Supplier must comply with applicable Commonwealth and Department security law and policies, including those obligations specified in the Australian Government Protective Security Policy Framework as amended from time to time. For the avoidance of doubt, it is solely the Supplier's responsibility to put in place the appropriate protection in relation to physical security provisions described in Sections 5 and 6, and the Supplier must also manage the relevant risks relating to such physical security.

- 2.4 The Supplier may propose changes to the Security Policy on an on-going basis to reflect Good Industry Practice. Any such changes will be processed through the Change Control Procedure as a Non-Chargeable Change. The parties acknowledge that, a request from the Department to move from one level of physical security (as such security levels are identified in Schedule 2) to a higher or lower level of security is to be carried out in accordance with the Change Control Procedure, including any resulting increase or decrease (as applicable) ^{s47C}

- 2.5 The Department will review the Department Security Policy and Standards on an ongoing basis. Changes will be made, from time to time, in response to changes in the Australian Government's security policy and as required for other reasons. Subject to the Department providing the relevant security documents described in Sections 2.1(a) and 2.1(b), the Supplier must:

- (a) keep up-to-date with all changes to these security policies; and
- (b) conform to them.

The Department may invite the Supplier to take part in the approval process that the Department operates when making policy changes but the Department will have the ultimate discretion in setting any new or changed security policy, standard or requirement. Changes to the Supplier's Solution and the Services Requirements that are necessary to meet changed security laws, policies, standards or requirements will be implemented through the Change Control Procedure.

3. SECURITY REQUIREMENTS

- 3.1 As described in Section 2.1, the Supplier must comply with all aspects of the Australian Government's security policy, as well as the Department Security Policy and Standards. This includes demonstrating conformance to ISO/IEC 27002:2013 and/or ISO/IEC 27001:2013 in

- (a) the Supplier's general security standards;
- (b) the processes involved in the maintenance and operation of existing IT systems; and
- (c) the development and operation of all future IT systems.

- 3.2 If required, the parties will work together during Transition to determine and define the scope of the Technical Infrastructure and Supplier's Solution that the Supplier must make compliant with ISO/IEC 27002:2013 and/or ISO/IEC 27001:2013.

- 3.3 The Supplier must ensure that Supplier Subcontractors comply with the Security Policy in the same way that the Supplier is required to comply with the Security Policy. Each Supplier Subcontract must include such aspects of this Schedule 3 (**Security**) as are appropriate to the Services Requirements to be fulfilled by that Supplier Subcontractor at the date of such Supplier Subcontract. Without prejudice to the Agreement Terms and Conditions and Section 13, the Supplier must carry out, or permit the Department or its authorised representative to carry out, security audits of the Supplier Subcontractors and the Facilities used by Supplier Subcontractors in the fulfilment of the Services Requirements in accordance with Schedule 12 (**Audit Access**) and at intervals agreed with the Department.

- 3.4** The Supplier must adopt appropriate and adequate security measures to ensure the operational integrity of the Enquiry Processes as described in Schedule 2 (**Business Requirements and Supplier Solution**).

4. MANAGING SECURITY

- 4.1** The Supplier must nominate an individual to be accountable for the management of security in relation to the Agreement (the “**Supplier Security Manager**”). The appointment of the Supplier Security Manager is subject to the approval of the Department.

- 4.2** The responsibilities of the Supplier Security Manager include:

- (a) representing the Supplier at all meetings that address security concerns, events and issues, except where the Department expressly requires otherwise;
- (b) ensuring that security is integrated into the Supplier's and the Supplier Subcontractors' day-to-day working with respect to the Services Requirements; and
- (c) receiving service updates on a monthly basis relating to security activities from each of the Supplier's nominated individuals responsible for each component of the Services Requirements. Such nominated individuals are to further report Security Incidents promptly to the Supplier Security Manager.

4.3 Security Policies and Procedures Manual

4.3.1 The Supplier must:

- (a) submit to the Department for approval a Security Policies and Procedures Manual including:
 - (i) relevant Information Security Manual requirements;
 - (ii) Acceptable Use;
 - (iii) Security Risk Management Plan (SRMP);
 - (iv) System Security Plan (SSP); and
 - (v) operational procedures; and
- (b) make updates to the Security Policies and Procedures Manual within 10 Business Days where these are reasonably requested by the Department.

4.3.2 The SRMP must:

- (a) detail effective and efficient management strategies for addressing all identified risks and, where relevant, implement such strategies within the timeframes specified by the Department;
- (b) include:

- (i) criteria for the Acceptance of risks including a cost versus risk benefit analysis;
- (ii) controls to mitigate risks where appropriate; and
- (iii) documentation and Acceptance of cases where transference of identified risks to third parties has taken place.

4.3.3 The SRMP must comply with:

- (a) AS/NZS ISO 31000:2009, Risk management - Principles and guidelines;
- (b) Australian Government Protective Security Policy Framework;
- (c) Australian Government Information Security Manual;
- (d) the Department's Security Policies;
- (e) the Department's Risk Management Framework; and
- (f) the Department's security objectives, operational requirements and constraints.

4.4 The Supplier must deliver assurance to the Department, within 10 Business Days of any such request for assurance, that:

- (a) the Supplier's Solution complies with the Security Policy and meets the applicable security standards; or
- (b) that the Supplier has implemented the appropriate risk management based alternative, as agreed in writing by duly authorised representatives of the Department, that enables the Supplier's Solution to be delivered without compromising the Security Policy or the applicable security standards.

4.5 The Department may, at any time, convene a meeting of a dedicated security management board to monitor the Supplier's management of security, discuss and resolve security issues, and share information. This board will consist of the Department's security staff, the Supplier Security Manager and the Supplier's security specialists.

4.6 The Supplier must provide to the Department regular reports on the status of security within the scope of the Services Requirements, as specified in Schedule 11 (**Reporting**).

5. PHYSICAL SECURITY REQUIREMENTS – GENERAL

5.1 During the Term and in accordance with Section 2.3, the Supplier must put in place and maintain appropriate security measures for the protection of:

- (a) Supplier Personnel, Clients, and/or any of the Department Personnel attending the Supplier Facilities;

- (b) property and Assets used to provide the Supplier Solution, including any Assets, Materials or Software provided to the Supplier by the Department;
- (c) all public money received by the Supplier on the Department's behalf, inclusive of cash, payment advice and documentation; and
- (d) information (in all its forms),

against attack, theft, disclosure, unauthorised access, corruption or non-availability, as applicable, whether by deliberate or accidental means.

- 5.2** As part of the Supplier's Solution, the Supplier must ensure that each location chosen as a Supplier Facility is safe and is suitable from a physical security perspective. The Supplier must ensure that adequate physical security measures are in place to protect the perimeter of the Supplier Facilities.
- 5.3** Notwithstanding the generality of Sections 5.1 and 5.2, the Supplier is responsible for, and must ensure, the health and safety of all Supplier Personnel, the Department Personnel, Clients and any other persons located on or visiting Supplier Facilities.
- 5.4** The Supplier must restrict access to non-public areas of the Supplier Facilities and the Technical Infrastructure to Authorised Personnel.
- 5.5** The Supplier must ensure that any access to Supplier Facilities or the Technical Infrastructure is strictly limited to such part of the Supplier Facilities or Technical Infrastructure as is required for the proper performance of the Supplier's obligations under the Agreement.
- 5.6** The Supplier must ensure that Clients and other members of the public cannot access non-public areas of the Supplier Facilities or the Technical Infrastructure.
- 5.7** The Department may, from time to time, notify the Supplier that particular Supplier Personnel must hold a particular level of Department security clearance and the Supplier must comply with, and ensure Supplier Personnel act in accordance with, that notice.
- 5.8** Without limiting Schedule 13 (**Applicable Requirements**), the Supplier must ensure compliance with the Department's work health and safety policies.
- 5.9** The Supplier must:
- (a) establish and maintain, at all Service Centres, proper and adequate facilities, Equipment (excluding Department Equipment), supplies and properly trained and appropriately resourced management and support Authorised Personnel;
 - (b) provide guidance and coordination for all activities during Equipment installations, routine maintenance, problem and crisis management including interfacing with facilities and technology groups, Other Service Providers and other relevant groups;
 - (c) undertake the physical access and escorting for visiting Department Personnel and Other Service Provider staff in Supplier Facilities.

6. PHYSICAL SECURITY REQUIREMENTS –SUPPLIER FACILITIES**6.1** The Supplier must ensure:

- (a) Service Centres must be located in areas with a high degree of safety (as far as possible). After the Effective Date, any new Service Centre that the Supplier proposes must firstly be submitted to the Department for clearance before the Supplier undertakes leasing and refurbishment arrangements. The relevant security officer must be consulted and kept informed throughout the refurbishment process, and even after occupation of the premises for any remodelling requirements.
- (b) After the Effective Date, before leasing any property from which Services will be provided, the Supplier's security team will make enquiries with the organisations occupying the neighbouring premises and the security agency servicing the commercial building about the security measures being followed in the premises and any past untoward incidents that may have occurred in the premises.
- (c) The Supplier must arrange for approved office premises to be surveyed by a recognised security agency prior to installation of necessary security devices like CCTV, intrusion detectors, fire alarms, etc.
- (d) In consultation with the Department, the Supplier must arrange for the installation of necessary security devices like CCTV, intrusion detectors, fire alarms, etc.
- (e) The Supplier must arrange for professional security guards to supervise and protect all public interface areas.

6.2 The parties acknowledge that such physical security standards and measures apply from the relevant Go-Live Date for each Supplier Facility. However, the parties acknowledge that the Supplier's physical security standards and measures may need to change as a result of the security risk assessment described in Section 6.3, as agreed in accordance with Schedule 8 (**Change Control**).

6.3 At least one (1) month prior to the relevant Go-Live Date, the Supplier must carry out a security risk assessment of the relevant Supplier Facility to the standard of the Security Risk Management Framework HB 167:2006, taking into account its location, to confirm if the physical security standards and measures are sufficient to meet the Supplier's security obligations under Section 5. Such security risk assessment may include a gap analysis or other processes to determine the Supplier Facility's physical security compliance.

6.4 At least one (1) month prior to the relevant Go-Live Date, the Supplier must issue a security assessment report to the Department in respect of the relevant Supplier Facility, which must include any recommendations by the Supplier to increase the physical security standards and measures for the relevant Supplier Facility. As part of such recommendation, the Supplier must include its proposed plan and associated cost impact for the implementation of the relevant recommendation by the Go-Live Date of the relevant Supplier Facility.

- 6.5** Unless an alternative date is agreed by the parties, within 10 Business Days after any recommendation made by the Supplier under Section 6.3 or 6.4, the parties will meet to discuss and agree whether the security standards or measures need to be increased for the relevant Supplier Facility or whether the recommendations proposed by the Supplier under Section 6.3 or 6.4 can be addressed by other means. Without prejudice to the allocation of costs under the provisions of Clause 29 (Regulatory and Legal Compliance) of the **Terms and Conditions**, any changes to these requirements are to be agreed by the parties in accordance with Schedule 8 (**Change Control**) and, unless agreed otherwise, the costs for such Changes are to be borne by the Supplier.
- 6.6** It is acknowledged by the parties that a Supplier Facility's security compliance with this Schedule 3 (**Security**) is one of the Readiness Criteria for the Go-Live Readiness Certificate. If the parties cannot agree to the proposed increase to the physical security standards and measures as recommended by the Supplier under Section 6.3 or 6.4 or the proposed plan for implementation of such recommendations cannot be implemented in time for the Go-Live Date of the relevant Supplier Facility, the parties will work together to agree an appropriate work-around until the required increase to security standards and measures is in place.
- 6.7** The Supplier must ensure that all Supplier Facilities achieve and maintain a Protective Security Policy Framework security accreditation as follows:
- (a) for all Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) a minimum Zone 2 Security Zone; and
 - (b) for all other Supplier Facilities, a minimum Zone 1 Security Zone.

In addition to this, the Supplier must:

- (c) control entry into the Supplier Facilities in order to maintain appropriate security standards;
- (d) comply with all Departmental directions regarding the physical access and control of the Supplier Facilities;
- (e) ensure all physical safety related devices and equipment are supplied, installed and maintained as per applicable International, Australian and Departmental standards;
- (f) ensure that all Supplier Facilities have appropriate fire, safety and evacuation training processes and procedures and that emergency drills are conducted on a regular basis;
- (g) ensure that first aid including access to appropriately trained first aid personnel is available on the premises;
- (h) Not Used;
- (i) maintain good relations with the local police station for assistance during extraordinary situations;
- (j) ensure all offices are secured with alarms and intrusion detection devices;

- (k) provide access to any security records, including access logs, CCTV footage and risk assessments to the Department within 10 calendar days of any request for such records or as otherwise agreed by the parties; and
- (l) ensure all records are stored safely and securely for whichever is the longer of the Term of the Agreement or as required by the *Archives Act 1983* (Cth).

6.8 The Supplier must ensure all Department Material is kept secure at all times, including:

- (a) storing all Department Material in a secure area where it will not be subject to extreme heat, cold, dampness or other adverse environmental conditions; and
- (b) where approved by the Department, disposing of broken, inoperable and surplus Equipment (including Supplier Equipment) in accordance with the PSPF, Information Security Manual (ISM) and the Department's security, Change Management and Asset Management policies; and
- (c) the provision of secure transport to and from Locations, as required.

7. PERSONNEL SECURITY REQUIREMENTS – GENERAL

7.1 All Supplier Personnel who will carry out work or perform duties under the Agreement and who will be required, while carrying out some or all of that work or performing some or all of those duties, to:

- (a) enter secure areas in Supplier Facilities unescorted;
- (b) access the Technical Infrastructure;
- (c) work with Department Personnel for extended periods;
- (d) have non-public access to Department Systems;
- (e) have access to Department Data or Client Data; or
- (f) hold a particular kind of security clearance (as described in Section 5.7 and 11.1),

are to be authorised by the Supplier to carry out that work or perform those duties. Those persons authorised in accordance with this Section 7 are referred to as an **"Authorised Person"** and collectively as the **"Authorised Personnel"**.

7.2 The Supplier is not to permit any of the Supplier Personnel or Supplier Subcontractors who are not Authorised Personnel to have access to any systems used to provide the Services. The Supplier must take active steps to ensure that Supplier Personnel or Supplier Subcontractors who cease to be engaged in the fulfilment of the Services Requirements are prevented from accessing any systems used to provide the Services.

7.3 Notwithstanding the specific requirements for Authorised Personnel with access to Client Data outlined in Section 11, the Supplier must use Commercially Reasonable

Efforts to ensure that thorough local background checks are carried out on all members of Supplier Personnel before they commence work on the Services. These are to include checking local criminal and security records. The Supplier should also obtain written references from former employers and require applicants to produce adequate documentary proof of their identity and residence (e.g., for identity: national ID card or passport and for residency: two (2) utility bills/bank statements). At the Department's request, the Supplier must provide the Department with the details of the results of these checks and references. To the extent the Supplier cannot obtain sufficient background information or carry out the background checks for any Supplier Personnel, the Supplier must promptly notify the Department and seek the Department's consent before such person(s) commence work on the Services. The parties may agree what action or work-around is required in respect of such person(s). However, the Supplier acknowledges that in such circumstances, the Department may, at its absolute discretion, withhold its consent for security reasons in respect of such person(s) commencing work on the Services. The Department may also require the Supplier to replace any Supplier Personnel in accordance with Section 4 of Schedule 9 (**Human Resource Management**).

8. PERSONNEL SECURITY REQUIREMENTS – SUPPLIER FACILITIES

8.1 The Supplier must require new Supplier Personnel to sign a confidentiality undertaking covering the following key points:

- (a) Supplier Personnel are to maintain complete confidentiality of all information they would have access to during their day-to-day working;
- (b) Supplier Personnel are not to discuss details of any Client or Enquiry with any person except their supervisor or a person nominated by the Department for that purpose;
- (c) Supplier Personnel are to be made aware that they are specifically prohibited from misusing their position to influence any visa, citizenship or trade application;
- (d) Supplier Personnel are to agree to a condition of employment wherein they may be frisked and their personal bags checked by authorised security personnel at time of entering or leaving the Supplier Facilities;
- (e) Supplier Personnel are to be made aware that they are specifically prohibited from misusing their proximity to the Department or Department Personnel to influence any visa, citizenship or trade application;
- (f) Supplier Personnel are to be reminded that the Supplier places the highest priority on confidentiality and ethical conduct, and on event of any misdemeanour, a zero-tolerance policy will be followed; and
- (g) Supplier Personnel involved in the removal of Client Data, the unauthorised distribution of Client Data, seeking a consideration from a Client, or attempting to influence a Department officer must be immediately removed from the Services.

8.2 The Supplier must:

- (a) ensure any visitors to facilities are suitably cleared or escorted; and
- (b) ensure all Authorised Personnel working on the Services have appropriate and relevant training in security practices and procedures.

8.3 All Supplier Personnel are to have unique identity cards, electronic gate cards and system login ids. All employees are to be informed at time of appointment that their movements as well as activity on the computers will be subject to surveillance.

8.4 As a policy, the Supplier must train all Supplier Personnel to multi-task to facilitate rotation and ensure that no Supplier Personnel develops a vested interest in any workstation or work practice.

8.5 Supplier Personnel providing support functions, such as security guarding, are also to be rotated to the maximum practicable extent possible.

9. CYBER SECURITY REQUIREMENTS – GENERAL

9.1 Data Security

9.1.1 The Supplier must ensure that the Supplier Personnel and the Supplier Subcontractors do not attempt to access, or allow access to, any data, files or programs used in the provision of the Services within the information systems environment, Department Materials or Department Data or Client Data to which they do not need access in order to provide the Services or are prohibited from accessing under the Agreement or by Law.

9.1.2 The Supplier must comply with the Privacy Act as well as the Department's reasonable guidelines and instructions on the storage, security and privacy of Department Data and Client Data which will include guidelines on the type of data that, and the length of time that data, can be stored on the Supplier's systems.

9.1.3 The Supplier must comply with the Payment Card Industry Data Security Standard (PCI-DSS) in the event of any credit card data being handed. This includes any person, business or organisation that receives, stores, processes or transmits credit card details.

9.1.4 The Supplier must ensure the security, confidentiality and integrity of all Client Data whilst such data is in the control of the Supplier, which includes whilst the Client Data is in transit between the Supplier and the Department.

9.1.5 The Supplier will prohibit and prevent Supplier Personnel and Supplier Subcontractors who do not require access in order to carry out their obligations under the Agreement from gaining access to Department Data and Client Data and to maintain systems security measures to guard against the unauthorised access, alteration or destruction of Department Material, Department Data and Client Data. At the least, these measures will include that:

- (a) all users are to be required to use a unique identification logon and password to access the Technical Infrastructure. The use of access control and file permissions are to be set to restrict users to data on a

"need to know" basis. Auditing of user access is to be provided. User activity is to be logged, archived for a minimum of six (6) months and centrally monitored using industry best practice. Client Data is to be encrypted to the Australian Signals Directorate (ASD) standards as per the Information Security Manual (ISM);

- (b) all users are to be required to change their passwords to access the Technical Infrastructure at least every three (3) months (or such other period agreed by the parties);
- (c) users' screens are to lock after a period of inactivity; and
- (d) disposal of faulty or redundant magnetic media (tapes, hard drives, etc.) must be carried out securely.

9.1.6 If the Supplier becomes aware of any contravention of the data security requirements of the Department or of unauthorised access by any of Supplier Personnel or Supplier Subcontractors, or any other unauthorised person, the Supplier must report the incident to the Department, describe in detail any accessed materials, return to the Department any copied or removed materials, where appropriate, and comply with all reasonable directions of the Department.

9.1.7 The Supplier Personnel and Supplier Subcontractors are not to:

- (a) collect, stop, process or otherwise make use of Department Data or Client Data for any purpose other than that which is directly in relation to the supply of the Services;
- (b) purport to sell, let for hire, assign rights in or otherwise dispose of any of Department Data or Client Data;
- (c) make any Department Data or Client Data available to any third party other than that which is necessary to enable that person to perform its part of the Services and then only to that extent; or
- (d) commercially exploit Department Data or Client Data.

9.1.8 The Supplier must establish and maintain safeguards against the destruction, loss or alteration of Department Data and Client Data in the possession of Supplier Personnel and Supplier Subcontractors. Without prejudice to the other rights of the Department under the Agreement, if in the provision of the Services any Department Data or Client Data is lost through the fault or negligence of Supplier Personnel or Supplier Subcontractors or any breach by the Supplier of the terms of the Agreement, the Supplier must regenerate such Department Data or Client Data to the most current back-up copy as required by the Agreement without additional expense to the Department and, in doing so, must use its Commercially Reasonable Efforts to ensure that the timings for the provision of the Services are not materially affected.

10. CYBER SECURITY REQUIREMENTS –SUPPLIER PROVIDED SYSTEMS

10.1 Access Management

10.1.1 The Supplier must:

- (a) maintain an audit trail of all activity that creates, changes, or deletes data and user access to all applications and systems managed by the

Supplier which contains Department Data and end-to-end traceability across Applications, Systems, and parties; and

- (b) capture data regarding routine access and exceptions for audit trail purposes, and make such data available to the Department upon request.

10.2 Service Management

10.2.1 The Supplier must:

- (a) base its Service Management practices on the "Information Technology Infrastructure Library" (ITIL) version 3; and
- (b) ensure compliance with the Department's policies, including data and records management, and electronic records and data archiving as well as the requirements of the PSPF, ISM and the Department's Security Policy and Standards.

10.3 Technical Support

10.3.1 The Supplier must:

- (a) implement engineering Changes and upgrades to improve the safety, security, performance and reliability of all Assets and Systems operated by the Supplier;
- (b) ensure all Assets and Systems operated by the Supplier are designed and deliver the Services in compliance with all relevant Laws and industry standards including Australian Government security standards;
- (c) perform modifications to all Assets and Systems operated by the Supplier as required to maintain compliance with changes in Laws and industry standards, including changes in telecommunications regulations and Australian Government security standards;
- (d) coordinate with Other Service Providers, the Department and/or other third parties as required by the Department for the purpose of meeting this Section 10.3.1.

10.4 Operations Services

10.4.1 The Supplier must:

- (a) ensure that any processing failure is managed in accordance with in accordance with the IT Operations Plan as approved by the Department;
- (b) perform data backup and recovery services;
- (c) ensure that any proposed use of outsourced cloud services are listed on ASD's Certified Cloud Services List (CCSL), in accordance with the ISM.
- (d) monitor performance of on-line interactive traffic;
- (e) force off users in accordance with procedures approved by the Department;
- (f) provide operational support for multiple releases of software as required by the Department;

- (g) on an ongoing basis, identify options to automate the operational and monitoring environment to reduce errors, increase efficiency and reduce Scheduled Downtime and, subject to approval of the Department, implement such initiatives into the environment;
- (h) provide a formally managed operational environment that ensures that processes and functions, including all configuration details and operational and maintenance processes and functions, are fully compliant with the security requirements of the Department; documented and maintained as standards, procedures or controlled operational instructions which are provided to the Department; and
- (i) implement all changes to the environment in accordance with Change Management.

10.5 Incident Management

10.5.1 The Supplier must:

- (a) perform Incident resolution activities to restore normal delivery of the Services in compliance with the Service Levels;
- (b) proactively monitor the environment for incidents and undertaking steps to investigate, diagnose, limit and/or mitigate identified or suspected incidents, this includes implementing effective workarounds to support the continuation of business;
- (c) where the Department's ICT reasonably appears to be contributing to the incident, proactively and promptly report all incidents and issues identified via automated or manual monitoring performed by the Supplier to the Department's Service Desk in accordance with the Service Levels, including escalation to the Supplier and/or the Department's management;
- (d) resolve or recover Incidents arising from or related to the Services;
- (e) monitor, track and manage all Incidents escalated to the Supplier's Security Support arising from or relating to the Services until they are closed, including Incidents whose cause is unclear. Incidents shall not be considered closed until an Authorised User confirms that the Incident has been resolved;
- (f) generate a Problem Ticket from an Incident and coordinate the root cause analysis and event correlation for all problems.
- (g) identify preventive measures and/or coordinate resolution of Problems for those Problems underlying the Incidents covered by this clause 10.5.1, including recording all information on the details and corrective actions of the Incident.

10.6 Patch Management

10.6.1 The Supplier must:

- (a) provide notice to the Department of all High Impact Patches by the relevant supplier, as they become available;
- (b) provide recommendations to the Department in relation to the need, timing and implications of implementing/not implementing patches as they become available;

- (c) implement all patches in accordance with the recommendations and timing approved by the Department;
- (d) monitor and regularly report to the Department on the impact of implementing/not implementing patches; and
- (e) for each High Impact Patch:
 - (i) within 10 Business Days after the announcement by the supplier, the Supplier must provide advice to the Department on:
 - (1) details of the patch;
 - (2) impact of implementing/not implementing the patch; and
 - (3) options for when to implement the patch; and
 - (ii) if the patch is agreed to be implemented, implement the patch in accordance with Change Management and the timeframe agreed with the Department.

10.7 Refresh, Upgrade and Software Currency

10.7.1 The Supplier must:

- (a) ensure all Software including Operating System Software is at either the N release level or N-1 release level, unless otherwise agreed by the Department.
- (b) upgrade all Software including Operating System Software to the N release level no later than 12 Months after the release of the N release level of the Software, unless otherwise agreed by the Department

10.8 Monitoring

10.8.1 The Supplier must:

- (a) collect and store all System audit logs regarding the Services;
- (b) retain System audit logs for the life of the Agreement and Exit Period;
- (c) provide copies of all System logs to the Department on a weekly basis;
- (d) provide access to the Department and the Department's nominated third parties to all audit logs regarding the Services including access for the Department's tools that may store, interrogate or monitor the audit logs.
- (e) install, maintain, operate, and upgrade, as necessary, automated monitoring tools to monitor system security and check for identified or potential problems;
- (f) provide read only access to installed automated monitoring tools to nominated Department Personnel; and
- (g) monitor security events, including working with the Department to identify potential issues caused by inappropriate or unauthorised access or modifications, and recommending modifications to security

configurations for improved compliance with policy or to minimise harm to the Department's environment, where achievable.

10.9 Reporting

10.9.1 The Supplier must provide a monthly Report in a format agreed with the Department that includes, at a minimum:

- (a) a summary of security issues that may potentially impact on the Services in the next Month, the next 6 Months and the next 12 Months; and
- (b) trend analysis of all events reported during the 6 most recent Months, summarising current events and trends in both a summary, easy-to-understand graphical representation and detailed reports.

10.10 Compliance

10.10.1 The Supplier must:

- (a) maintain a secure, Software library that holds the master copy, and associated Documentation, of all Software used in the delivery of the Services;
- (b) maintain an up to date suite of security artefacts and documentation for all Services;
- (c) undertake a security audit of the Services, at least once a year or following a major Change or Event as directed by the Department, including all associated Equipment and Software that directly links to the Services, using a registered I-RAP assessor, agreed to by the Department and following the guidelines contained in the I-RAP System Review Guidelines and Checklist;
- (d) develop an agreed Security Remediation Plan and implement the Plan to rectify any deficiencies found in the security audit, and reporting any non-compliance or issues to the Department IT Security Adviser on the status of the implementation of the Plan;
- (e) provide the Department with evidence supporting the findings of all annual audits, recommendations and Security Remediation Plans, with all security audits and compliance reports to be evidence based; and
- (f) cooperate fully with the Department during any security audit which the Department may at any time and without notice, undertake on the Services provided by the Supplier.

10.10.2 The Supplier must provide an Annual Security Compliance Statement each year on or before the anniversary of the Effective Date confirming:

- (a) all Services are being delivered in accordance with the Australian Government PSPF and ISM and the Department's security policies. This explicitly includes verification of the correct disposal of any decommissioned assets;
- (b) the annual security audits have been completed, reports provided to the Department and any required Security Remediation Plans developed and signed off by the Department;

- (c) all Authorised Personnel have the appropriate security clearances and qualifications; and
- (d) where any of items (a) to (c) of this clause 10.10.2 have not been achieved, the non-compliance is documented in the Security Compliance Statement including what actions were taken to mitigate and address that non-compliance.

11. CYBER SECURITY REQUIREMENTS – DEPARTMENT PROVIDED SYSTEMS

11.1 Notwithstanding any other security requirements within the Agreement, any Authorised Personnel that require non-public access to the Department systems must:

11.1.1 hold a current Employment Suitability Clearance (ESC); and

11.1.2 hold a current Commonwealth Security Clearance (CSC) to the appropriate level;

before accessing such systems.

11.2 Incident Management

11.2.1 The Supplier must:

- (a) proactively and promptly report all incidents and issues identified via automated or manual monitoring performed by the Supplier to the Department's Service Desk in accordance with the Service Levels, including escalation to the Supplier and/or the Department's management;
- (b) monitor, track and manage all incidents reported by the Supplier relating to the Department provided systems until they are closed, including incidents whose cause is unclear;
- (c) using the Department's existing incident management process wherever possible to report and monitor Department provided systems incidents; and
- (d) identify preventive measures and/or coordinate resolution of Problems for those Problems where the Supplier is assigned the role of "Case Manager" including recording all information on the details and corrective actions of the incident.

12. SECURITY INCIDENTS

12.1 The Supplier must immediately report to the relevant the Department Representative all Security Incidents of which the Supplier becomes aware, including any security concerns of the Supplier or unresolved security issues, acting in accordance with its obligations under the Agreement.

12.2 In addition to the Supplier's reporting obligation under Section 12.1, if a Security Incident occurs, the Supplier must carry out an immediate investigation into the incident and initiate corrective actions to minimise re-occurrence. The Supplier must also prepare and retain (for a reasonable period of time) documentation of the investigation of the Security Incident and provide a copy to the Department Representative.

12.3 The Department may choose to investigate any or all Security Incidents, security concerns or unresolved security issues or refer incidents to the Police and others as required.

13. INSPECTION

13.1 Without limiting the Agreement Terms and Conditions, the Department has the right to inspect and audit any and all security aspects of the Supplier's operation in accordance with the Agreement in order to verify compliance with the Commonwealth's and the Department's Security Policy and Standards and this Schedule 3 (**Security**), including attending the Supplier Facilities to inspect the physical security standards and measures in place.

SCHEDULE 4
TRANSITION MANAGEMENT

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TRANSITION MANAGEMENT**1. INTRODUCTION**

1.1 This Schedule 4 (**Transition Management**) sets out the principles which will govern the Transition elements of the Supplier's Solution required to:

1.1.1 commence Transition In of the Services on and from the Effective Date;

1.1.2 s47C

1.1.3 Transition out of the Services at the end of the Term.

1.2 Included elements comprise all operational and administrative project management functions associated with the transitioning of any and all services to either enable, change charging arrangements or discontinue business as usual (BAU) services as approved by the Department.

1.3 Excluded elements are those operational and administrative project management functions not directly related to the transitioning in, changing charging arrangements or transitioning (exit) out of any services and any other activities not approved by the Department in the Supplier's formal Transition Plan.

1.4 In this Schedule 4 (**Transition Management**) unless the contrary intention appears, each capitalised term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

1.5 This Schedule 4 (**Transition Management**) comprises of three main parts, namely:

- **Part A** which sets out the **Transition Requirements** for the **Transition In** for the commencement of any and all, new services and arrangements s47C
- **Part B** which sets out the **Transition Out (Exit) Requirements** for the exiting out of current services and arrangements; and
- The **Annexures** supporting this Schedule 4 (**Transition Management**).

1.6 The Transition activities are designed to:

1.6.1 ensure the Supplier has overall responsibility for planning, executing and reporting the Transition solution(s) to meet the Department's Services Requirements;

1.6.2 achieve the smooth, effective, efficient and economical transition of the Services to or from the Supplier or to change charging arrangements;

1.6.3 ensure minimal disruption to the Department operations and to the Services provided to Clients; and

1.6.4 take into account the Department's operational and resource constraints.

2. PRINCIPLES

2.1 The following principles are to be considered in the planning and execution of Transition activities:

- 2.1.1 Avoid service degradation
- 2.1.2 Minimise time to competency whilst maintaining quality
- 2.1.3 Risk is not transferred to the Department
- 2.1.4 Demonstrate understanding of the Department's operating and legal environment
- 2.1.5 Clearly articulate support requirements
- 2.1.6 Transition is to be implementable by the Department
- 2.1.7 Plan for a phased transition

3. SHARING OF BEST PRACTICES, KNOWLEDGE AND EXISTING EXPERIENCE

3.1 The Supplier is to make use of best practice, knowledge and existing experience to facilitate the smooth and effective Transition of Services.

PART A – TRANSITION REQUIREMENTS

3.2 These Transition Requirements apply to the Transition In s47C

3.3 The Supplier's Responsibilities

3.3.1 The Supplier will have overall responsibility for planning and executing the Transitions solutions including:

- (a) appointing a Transition Manager for the Transitions activities. In particular, the Supplier will adopt the following operational scheme:
 - i. The Supplier's obligations and delivery of Services will be closely monitored by the Contract Manager (in accordance with Schedule 7 (**Governance**) to ensure that the Supplier adheres to its commitments.
 - ii. The Supplier's Transition Manager is the Supplier's Representative in charge of business operations and projects, and will have overall responsibility for finalising the Transitions programme activities in accordance with Section 1.6.
 - iii. Transition coordination will be managed by the Supplier. The Transition Manager will provide the Department with weekly progress reports throughout the Transition phase, unless the parties agree to more frequent progress reports. The Supplier will appoint personnel trained and experienced in project management techniques to the Transition Manager. The Supplier's Transition Manager will regularly liaise with the Contract Manager.

- iv. The Transition Manager is responsible for the success of the transition, ensuring all Services set out in the Agreement are delivered on the Transition Milestone Dates and are operating as specified and without failures or issues.
 - v. The Transition Manager will have experience in the Supplier's incumbent operations and experience in transitioning using a recognised project management methodology (such as PRINCE 2, PMBOK, etc).
 - vi. The Transition Manager will be assisted by the Supplier's corporate office. The selected corporate office staff will have gathered experience in the Supplier's incumbent operations to ensure that known and trusted Supplier Personnel are in charge. Supplier Personnel will be relocated locally to the transition activity as required, to assist or support the Transition.
 - vii. The Transition Manager will supervise and support the following activities:
 - acquisition and set up of infrastructure;
 - set up of IT systems;
 - recruitment, vetting and training of staff;
 - onsite support during the critical rollout phase; and
 - debugging of systems and processes based on field experience during the rollout.
 - viii. A representative from the Supplier will be based in the local area throughout the Transition Period, and will continue after the Transition Period for two (2) weeks and until the complete stabilisation of systems and processes is achieved.
- (b) providing transition coordination and support to the Contract Manager for the purposes of the Contract Manager meeting the Department's requirements;
- (c) successfully delivering the key Transitions deliverables listed below:
- i. compliance with the provisions set out in this Schedule 4 (**Transition Management**);
 - ii. management and monitoring of all aspects of the Transitions including timelines, adherence to standards, and quality control;
 - iii. providing regular Transitions reports and updates on the status of Transition;
 - iv. facilitation of:
 - (i) a rapid and concise risk and issue decision-making process; and

- (ii) coordination with the Department of mitigation or treatment measures
- during the entire Transitions phases;
- v. identification of roles and responsibilities referring to the monitoring of risks and the resolution of issues; and
- vi. management and reporting of internal and external dependencies during the Transitions.
- (d) identifying and actively managing, to seek to eliminate, business and technical issues and risks that may affect the Transitions;
- (e) fulfilling its security obligations at all times in accordance with Schedule 3 (**Security**); and
- (f) meeting the Service Levels and Service Credits in accordance with Schedule 6 (**Service Levels and Service Credits**).
- 3.3.2 The Supplier is to execute the Transitions in accordance with the approved Transition Plans and this Schedule 4 (**Transition Management**).
- 3.3.3 The Supplier is to provide Transition coordination and support to the Contract Manager including:
 - (a) providing the Contract Manager with a regular and timely progress report throughout the Transitions phases; and
 - (b) appointing personnel trained and experienced in project management techniques to assist the Contract Manager.

4. TRANSITION IN PLAN

4.1 Transition In Plan

- 4.1.1 The Supplier's Transition In Plan will set out the generic methodology and the overall plan to be implemented by the Supplier to achieve successful Transition In. It will describe the high-level principles, activities, deliverables and Milestones required for a successful Transition and to meet the Transition In Schedule. The Transition In Plan will also identify the party responsible for delivering or meeting such activities, deliverables and Milestones.
- 4.1.2 If, through the Change Control Procedure the parties agree to a New Service, the Supplier will follow the Transition In Plan for the introduction of such a New Service.
- 4.1.3 Any changes to the Transition In Plan after the Effective Date will be agreed by the parties through the Change Control Procedure.

4.2 Transition In Schedule

- 4.2.1 The Supplier's Transition In Schedule will set out a list of Go-Live Dates for each Service or Business Requirement that it is being established and/or

managed under the Agreement. Changes to the Transition In Schedule will be agreed by the parties through the Change Control Procedure.

- 4.2.2 The Supplier will ensure that all Transition activities are completed and the Readiness Criteria are met for each Service or Business Requirement (as appropriate) by the relevant Go-Live Date or as otherwise agreed by the parties through the Change Control Procedure.

s47C



s47C

PART B – TRANSITION OUT (EXIT) REQUIREMENTS**6. INTRODUCTION**

- 6.1 The objective of the Transition Out Plan is to facilitate the smooth exit of the Supplier from Service delivery and transfer of the Services Requirements to a Successor Supplier (if any), in the circumstances set out in Section 6.3, in a way that preserves business continuity for the Department.
- 6.2 This Part B (**Transition Out (Exit) Requirements**) sets out the process by which the Supplier is to provide Exit Assistance in respect of Removed Services, including where they are to be provided through a third party or by the Department itself or any other Agency of the Commonwealth.
- 6.3 The Supplier is to provide the Exit Assistance set out in this Part B (**Transition Out (Exit) Requirements**) and the Transition Out Plan commencing from the following dates:
- 6.3.1 following a successful Procurement Process in relation to any of the Services Requirements, from the date specified in the notice from the Department to the Supplier notifying the Supplier;
 - 6.3.2 if one party has served notice of Termination in accordance with **Clause 42** of the **Terms and Conditions**, from the date specified in the notice;
 - 6.3.3 in the case of the expiry of the Agreement, the date six (6) months prior to the Expiration Date
 - 6.3.4 where, pursuant to any right under the Agreement or at Law, the Department provides notice to the Supplier as is required to remove any Services Requirements from the scope of the Agreement (whether following a Procurement Process or otherwise), from the date on which the Supplier received such notice; or
- (each or all of the above effective dates are known as the “**Exit Assistance Commencement Date**”), and ending on
- 6.3.5 a date that is six (6) months after Termination Date of the Agreement unless another date is agreed by the parties.
- 6.4 The Supplier is to comply with the Department’s approved Transition Out Plan from the applicable Exit Assistance Commencement Date until the Services Transfer Date or the date of removal of the particular Services, as applicable.
- 6.5 Notwithstanding the generality of Section 6.6, at the Department’s request, the Supplier is to continue to comply with its obligations under the Transition Out Plan for up to three (3) months, or such longer period that is mutually agreed to transfer the

relevant Removed Services to a Successor Supplier, following the Termination Date or date of removal of the Services (as the case may be).

6.6 The parties agree and acknowledge that this Schedule 4 (**Transition Management**) will continue in full force and effect notwithstanding the Termination of the Agreement.

6.7 Without limiting the Department's rights under the Agreement, the Supplier will continue to be entitled to receive Service Charges ^{s47C}

7. SUPPORT FOR A PROCUREMENT PROCESS

7.1 In the case of a Procurement Process, the Supplier is to assist and support the Department with the Procurement Process from the Exit Assistance Commencement Date in accordance with this Schedule 4 (**Transition Management**) and Annex 4-2.

8. ASSISTANCE PRIOR TO TRANSFER OF THE SERVICES

8.1 The Supplier agrees to continue to provide the Services, and to assist with exit management and exit assistance during the Exit Period, in accordance with this Schedule 4 (**Transition Management**) and Annex 4-4.

9. ASSISTANCE ON TERMINATION

9.1 If the Department appoints a Successor Supplier, (including any in-house team), other than the current Supplier, to fulfil the Services Requirements then, with effect from the Services Transfer Date, the Supplier is to provide exit assistance to the Department and the Successor Supplier in accordance with this Schedule 4 (**Transition Management**) and the Transition Out Plan.

10. TRANSITION OUT PLAN

10.1 During the Transition In Period the Supplier is to update the Transition Out Plan for Department approval. The updated Transition Out Plan is to be substantially the same as the draft Transition Out Plan as tendered (unless otherwise agreed).

10.2 The parties will review and update the Transition Out Plan, subject to the Department's approval:

10.2.1 initially within six (6) months after the Effective Date; and

10.2.2 annually thereafter, on the anniversary of the first review conducted in accordance with Section 10.2.1, to ensure that it remains relevant as the Supplier's Solution develops and to reflect changes to the Services Requirements.

10.3 Whenever either party decides that changes are required to the Transition Out Plan, they will discuss, and agree pursuant to Schedule 8 (**Change Control**) a new document that replaces the current Transition Out Plan.

10.4 Unless otherwise agreed by the Department, the Transition Out Plan relates to the following general activities:

10.4.1 production and updating of the initial Transition Out Plan to include, as a minimum, the elements specified in this Schedule 4 (**Transition**

Management). This activity is anticipated to support any Procurement Process and potential Successor Supplier due diligence activities; and

10.4.2 updating and reviewing of the Transition Out Plan, in accordance with Section 10.2 above, and there will be the following two (2) phases as a minimum:

- (a) phase 1 of implementation activity, triggered by the need for transfer, is anticipated to be due diligence and transition planning activity to be carried out by the Successor Supplier within the period leading up to the Services Transfer Date, including staggered transfer of required business knowledge; and
- (b) phase 2 of implementation which will be mainly concerned with support to the Successor Supplier in the actual transitioning of the Supplier's Solution.

11. TRANSITION OUT SCHEDULE

11.1 Transition Out Schedule

11.1.1 The Supplier's Transition Out Schedule will set out a list of Go-Live Dates for the Successor Supplier for each Service or Business Requirement that it is being established and/or managed under the Agreement. Changes to the Transition In Schedule will be agreed by the parties through the Change Control Procedure.

11.1.2 The Supplier will ensure that all Transition activities are completed and the Readiness Criteria are met for each Service or Business Requirement (as appropriate) by the relevant Go-Live Date or as otherwise agreed by the parties through the Change Control Procedure.

12. ORDINARY COURSE OF BUSINESS

12.1 Throughout any Procurement Process and/or Exit Period, the Supplier is to:

- 12.1.1 not embark on any actions related to the Services Requirements that fall outside the Ordinary Course of Business, without the Department's prior written consent;
- 12.1.2 continue to devote such time and resources to the continued fulfilment of the Services Requirements, so as to ensure that there is no disruption to the Services Requirements and no reduction in the Supplier's performance of the Services in accordance with the Service Levels and Service Credits;
- 12.1.3 promptly notify the Department of any act, omission or conduct which adversely affects the Assets or Supplier Personnel or Supplier Subcontractors required to deliver any part of the Services Requirements during and after the Term; and
- 12.1.4 take active steps as reasonable to monitor the Supplier Personnel and Supplier Subcontractors to ensure there is no degradation in the quality of the Supplier's Solution.

13. EXIT CHARGES FOR EXIT ASSISTANCE**13.1 Exit Assistance before the Services Transfer Date**

13.1.1 The Supplier is to, so far as is reasonably practicable, and unless otherwise agreed in the Transition Out Plan, provide the Exit Assistance described in this Schedule 4 (**Transition Management**) from the Exit Assistance Effective Date to the Services Transfer Date using existing Supplier Personnel at no cost to the Department, ^{s47C}

13.1.2 If it is not reasonably practicable to provide the Exit Assistance using existing Supplier Personnel without degradation to the Supplier's fulfilment of the Services Requirements or achievement of the Service Levels and Service Credits or without incurring additional costs, the Supplier is to notify the Department and the parties will discuss a relaxation or waiver of certain Services Requirements or Service Levels and Service Credits to release Supplier Personnel to perform such Exit Assistance.

13.1.3 Notwithstanding Sections 13.1.1 and 13.1.2, the Supplier is responsible for ensuring it has sufficient Supplier Personnel to provide the Exit Assistance described in this Schedule 4 (**Transition Management**) and to deliver the Services in accordance with the Service Levels and Service Credits from the Exit Assistance Effective Date to the Services Transfer Date.

14. TRANSITION GOVERNANCE

14.1 The parties agree that the governance framework set out in this Section 14 is established with the aim of ensuring that each party is able to work towards the common goal of effective and timely completion of Transition. The governance framework set out in this Section 14 is designed to achieve the following:

- adherence to the provisions of this Schedule 4 (**Transition Management**);
- limitation of risk inherent within the performance and receipt of the Transition Plan within mutually acceptable levels;
- management and monitoring of all aspects of Transition;
- facilitation of a rapid and concise decision making process during Transition; and
- implementation of the Department approved Transition Plans on time and to the appropriate levels of quality.

14.2 Each party agrees to use all reasonable endeavours and resources to achieve the common goal outlined in Section 14.1 above.

14.3 The parties agree that the Delivery Management Meeting will be the appropriate forum in which to agree changes to the Transition activities, the Transition Plan and the overall Readiness Criteria, and to manage the process of governing compliance with the Department approved Transition Plan including monitoring progress of meeting Milestone dates.

14.4 In the period before the Go-Live Date for each Business Requirement, the Department will review and sign-off the Supplier's progress against the Transition Milestone Dates which will include:

- progress and completion of the Milestones in accordance with Annex 4-1 (**Transition Plans**);
- the location and facilities to meet the requirements in Schedule 10 (**Facilities**) and Schedule 3 (**Security**);
- completion of the IT solution; and
- readiness of the Supplier Personnel providing Services.

15. READINESS AND COMPLETION CRITERIA

- 15.1 Readiness and Completion Criteria against which the completion of any Transition activity, the provision of any deliverable or the achievement of any milestone will be measured throughout the Transition Period are described in the Transition Plans in Annex 4-1.
- 15.2 For each Business Requirement, the Supplier is to demonstrate to the Department's reasonable satisfaction that:
- it has met the relevant Readiness Criteria for Go-Live and has demonstrated that it is ready to assume the fulfilment of the Services Requirement for the relevant Business Requirement by the Go-Live Date, in which case the Department will sign the relevant Go-Live Readiness Certificate; and
 - during the Start-Up Period, it has demonstrated its ability to fulfil the Services Requirements for the relevant Business Requirement and has met the relevant Readiness Criteria for any post-Effective Date Transition activities (which may include an agreed list of minor deficiencies). In which case, the Department will sign the relevant Transition Acceptance Certificate and Transition for that Business Requirement will be deemed completed.
- 15.3 The Supplier will use Commercially Reasonable efforts to ensure that the Start-Up Period is kept as short as possible and, in no event, will the Start-Up Period exceed 4 (four) weeks.
- 15.4 The Supplier will also use Commercially Reasonable efforts to ensure that the Exit Period is undertaken in keeping with the Department approved Transition Out Plan.
- 15.5 Each Transition will be deemed to be complete when the Department signs a final Transition Acceptance Certificate to acknowledge that all Transition activities have been completed and all relevant Transition Acceptance Certificates have been signed.

16. FAILURE TO MEET TRANSITION MILESTONE DATES

- 16.1 Subject to **Clause 44** of the **Terms and Conditions**, if the Supplier's failure to meet a Transition Milestone Date gives the Department reasonable grounds to consider that the Supplier will fail to meet a Go-Live/Completion Date, the Department may, at the Supplier's cost, take reasonable steps to mitigate against the risk of the Supplier failing to meet such Go-Live/Completion Date.

17. REPORTING

- 17.1 Reporting is to be undertaken in accordance with Schedule 11 (**Reporting**) and in keeping with all the Department approved Transition Requirements and checklists set out in this Schedule 4 (**Transition Management**).

- 17.2 The Supplier will provide the Department with a Lessons Learned report at the completion of the Transition. The Lessons Learned report should outline the requirements set out in Schedule 11 (**Reporting**).

ANNEX 4-1**TRANSITION PLANS****1. INTRODUCTION**

1.1 The Supplier is committed to following the principles, activities, deliverables and milestones set out in the Transition Plans in this Annex 4-1.

1.2 Attach the negotiated Transition Plans from the Request for Tender here.

ANNEX 4-2**ASSISTANCE WITH A PROCUREMENT PROCESS****1. GENERAL CO-OPERATION DURING THE PROCUREMENT PROCESS**

- 1.1 Whenever it is notified that the Department is going to undertake a Procurement Process for the Services Requirements or any part of the Services Requirements by way of a Procurement Process, the Supplier is to fully co-operate with the Procurement Process.
- 1.2 Subject always to Section 7.3 of this Annex 4-2, with effect from the Exit Assistance Commencement Date of the Procurement Process until the Services Transfer Date, the Supplier is to provide to the Department such Information and other co-operation regarding the Supplier's fulfilment of the Services Requirements (as and when reasonably requested by the Department unless otherwise specified in this Annex 4-2) as would be reasonably necessary for a third party to:
- 1.2.1 prepare an informed, non-qualified offer for those Services Requirements; and
 - 1.2.2 not be disadvantaged in the Procurement Process compared to the Supplier (if the Supplier is participating in the Procurement Process) in respect of access to information regarding the Services Requirements.
- 1.3 Where used in this Schedule 4 (**Transition Management**), "Information" means any written or oral information (including information for the Department's due diligence purposes) which is material in detail or in substance and which describes the nature of any of the Services Requirements provided to the Department or the method by which those Services Requirements are provided by the Supplier.
- 1.4 With effect from the date on which the Department publishes official notice of the Procurement Process on the Commonwealth's AusTender website (or equivalent) at <http://www.austender.gov.au>, or with effect from the date on which the Supplier notifies the Department of an intention to bid pursuant to the Procurement Process (whichever is the earlier), the Supplier is to, so far as reasonably practicable, ensure that no individual who participates in its operations team is also a member of (nor is transferred into) its bid team in respect of the services covered by the Procurement Process. The Supplier is to notify the Department if it is not reasonably practicable to maintain such an ethical wall between its operations team and its bid team and the Department will not unreasonably withhold its consent to a reasonable request from the Supplier to waive such requirement.

2. SUPPLIER PERSONNEL

- 2.1 No later than fifteen (15) Business Days after receipt of a written request from the Department, the Supplier is to provide the Department with a list by Location of job titles, job descriptions and a figure representing the total staffing costs in respect of the Supplier Personnel which, as at that date, are assigned to the fulfilment of the Services Requirements, or any part of the Services Requirements. The Supplier is to thereafter, upon reasonable request provide the Department with an updated list. If an Acquired Rights Directive is in force in the relevant Location, the list is to also identify the following categories of job titles, skills, job descriptions, positions and the Location where they work:

- 2.1.1 those which are assigned to the Services Requirements on a full-time basis; and
 - 2.1.2 those which are assigned to the Services Requirements on a shared basis to the extent to which shared personnel work on the Department's account.
- 2.2 The parties agree that Information provided pursuant to Section 2.1 of this Annex 4-2 will be provided in compliance with the applicable data protection or privacy legislation and, at a minimum, be broken down by reference to organisational groupings and full-time equivalent positions and other relevant detailed information reasonably required by a third party to make an unqualified bid to provide services that are required to fulfil requirements similar to the Services Requirements.

3. SUPPLIER SUBCONTRACTS

- 3.1 Within one (1) month after the Exit Assistance Commencement Date, the Supplier is to provide the Department with an up-to-date list of the Supplier Subcontractors. With effect from the Exit Assistance Commencement Date, the Supplier is to notify the Department of any material changes to the Supplier Subcontracts which may adversely impact the fulfilment of any of the Services Requirements and is to consult with the Department regarding such proposed material changes.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 **Clause 28** of the **Terms and Conditions** apply.
- 4.2 The Supplier is to provide the inventory to be developed under **Clause 28.9** of the **Terms and Conditions** list within one (1) month after the Exit Assistance Commencement Date for the Procurement Process.

5. ASSETS

- 5.1 The Supplier shall provide a complete list of Assets used in the fulfilment of the Services Requirements, as maintained in accordance with Clause 20 of the Terms and Conditions, to the Department within one (1) month of the Exit Assistance Commencement Date for the Procurement Process.
- 5.2 The parties shall agree the level of detail and content to be provided by the Supplier in connection with the list referred to in Section 5.1 of this Annex 4-2. Notwithstanding the foregoing, the parties agree that the list shall include the Department's Assets.

6. PREMISES

- 6.1 The Supplier is to maintain a list of the Service Centre locations used in the fulfilment of the Services Requirements. The Supplier is to provide the Department with such list no later than two (2) months after the receipt of a written request from the Department in connection with the Procurement Process.
- 6.2 The parties will agree the level of detail and content to be provided by the Supplier in connection with the list referred to in Section 6.1 above. Notwithstanding the generality of the foregoing, the parties agree that the list will include:
- 6.2.1 the address of the Service Centre;
 - 6.2.2 a brief description of the location;

- 6.2.3 details of the security arrangements for the Service Centre;
 - 6.2.4 the nature and amount of accommodation used in connection with the Services Requirements;
 - 6.2.5 the type of work carried out at the location; and
 - 6.2.6 the hours of operation.
- 6.3 As part of the Supplier's Transition Out Plan and subject to the Successor Supplier complying with the Supplier's reasonable security and confidentiality requirements, the Supplier is to permit the Successor Supplier to access, and use such accommodation to the extent necessary to transfer the applicable Services Requirements.

7. USE OF SERVICES INFORMATION

- 7.1 The lists and information to be compiled and provided pursuant to Sections 2 to 5 of this Annex 4-2 as well as any information obtained during the Term, including volumes, Service Level and Service Credit information, system information and the relevant documentation, may be used by the Department to develop its procurement documentation for the Procurement Process including, in particular, to develop its services requirements against which potential Successor Suppliers may bid for the Removed Services.
- 7.2 Subject to Section 7.3 below and to appropriate confidentiality undertakings being given and put in place by any potential Successor Supplier, the Department may disclose to a potential Successor Supplier such information relating to the total staff numbers and staffing costs by Location, facilities and Supplier Subcontracts used by the Supplier to fulfil the Services Requirements.
- 7.3 Nothing in this Annex 4-2 permits the Department to disclose to Potential Suppliers any of the Supplier's Confidential Information relating to the manner in which, or the methods it uses to fulfil the Services Requirements, including but not limited to its business processes and practices, know-how, ideas, designs, specifications, research, current and future products and services, internal management information, marketing plans and techniques.

8. DISPUTES

- 8.1 During any Procurement Process, the Supplier is to maintain and update a list of on-going and/or threatened disputes with third parties in relation to the Supplier's Solution and/or Supplier Subcontracts, and is to use Commercially Reasonable Efforts to resolve such disputes.

ANNEX 4-3**ASSISTANCE IN THE PERIOD PRIOR TO THE TERMINATION DATE****1. INTRODUCTION**

- 1.1 This Annex 4-3 sets out the Exit Assistance to be provided by the Supplier from the Exit Assistance Commencement Date to the Services Transfer Date if there is a Termination or a Services Removal.
- 1.2 The Supplier is to use its Commercially Reasonable Efforts to minimise the Department's costs (if any) and management time resulting from any Termination or Services Removal (as the case may be) and to minimise the implementation time for the agreed Transition Out Plan and/or Services Transition Plan.

2. TRANSITION OUT PLAN

- 2.1 Within ten (10) Business Days after the applicable Exit Assistance Commencement Date, or such other time agreed in writing by the parties, the Supplier is to provide the Department with an updated Transition Out Plan.
- 2.2 The Department will respond within five (5) Business Days with its comments on the updated Transition Out Plan.
- 2.3 The Supplier is to respond to any of the Department's suggestions to improve or amend the draft Transition Out Plan within five (5) Business Days after receipt of the same. Unless otherwise agreed, within twenty (20) Business Days after the Exit Assistance Commencement Date, the parties will meet to discuss and agree the final form of the Transition Out Plan.
- 2.4 The parties will review and update the Transition Out Plan quarterly throughout the Exit Period, on the rolling tri-monthly anniversary of the Exit Assistance Commencement Date, to ensure that it remains relevant.
- 2.5 On the appointment of a Successor Supplier (if any), the Supplier is to participate in discussions with the Department and, if applicable, the Successor Supplier concerning an alignment of the Transition Out Plan and the Successor Supplier's Services Transition Plan, with a view to the Successor Supplier Services Transition Plan being agreed and finalised at least six (6) months prior to the Termination Date.
- 2.6 The final form of the Successor Supplier Services Transition Plan is to be agreed after consultation between the Department and the Successor Supplier and Supplier. The Supplier will make such adjustments to the Transition Out Plan as are necessary to align with and support the Successor Supplier Services Transition Plan.

3. GENERAL EXIT ASSISTANCE

- 3.1 Both parties will comply fully with their obligations under the Transition Out Plan and this Schedule 4 (**Transition Management**).
- 3.2 Both parties will appoint a suitable representative ("**Exit Manager**") to manage the exit process on a day-to-day basis. The appointment of the Supplier's Exit Manager is subject to the Department's prior approval (which approval will not be unreasonably withheld).

- 3.3 The Supplier's Exit Assistance may include training for the Department and/or the Successor Supplier personnel, consultants or subcontractors, as agreed.
- 3.4 If the Supplier fails to comply with any of its obligations with respect to the Transition Out Plan, it is to arrange (at its own cost) all such additional resources as are necessary to fulfil the applicable obligation as soon as reasonably practicable.
- 3.5 Unless otherwise agreed, the Supplier is responsible for the overall management of all the exit activities envisaged in this Schedule 4 (**Transition Management**) and the Supplier is to:
- 3.5.1 keep the tasks on schedule in accordance with any timetable set out in the Transition Out Plan; and
 - 3.5.2 identify and resolve, or assist the Department and the Successor Supplier in the identification and resolution of, any problems encountered in the timely completion of each task identified in the Transition Out Plan, whether the task is the responsibility of the Supplier or not.

4. SUCCESSOR SUPPLIER ASSISTANCE

- 4.1 If a person other than the Supplier is appointed as a Successor Supplier, the Supplier agrees to reasonably co-operate with the Department and the Successor Supplier, as directed by the Department, in relation to arrangements to effect a smooth transfer of knowledge and skills of the Services Requirements and any Transferring Personnel. Such co-operation includes reasonably assisting the Successor Supplier to familiarise itself as to the method of fulfilment of those Services Requirements in the six (6) month period prior to the expiry of the Agreement. In particular, the Supplier agrees that it will allow the Successor Supplier reasonable access to its facilities used to fulfil the Services Requirements so that the Department and/or the Successor Supplier, as directed by the Department, can observe the fulfilment of the relevant Services Requirements and prepare for the transfer of the Services Requirements from the Supplier. Subject to compliance by the Department and the Successor Supplier with any applicable security restrictions and confidentiality undertakings being put in place.
- 4.2 During the period referenced in Section 4.1, the Supplier agrees to ensure knowledge transfer from the Supplier (excluding any Supplier Material) to the Department and/or Successor Supplier, as directed by the Department, occurs as early as possible.
- 4.3 Subject to Section 13.1 of this Schedule 4 (**Transition Management**), the Supplier is to make available to the extent that it does not impact upon the fulfilment of the Service Requirements, suitably experienced and skilled Supplier Personnel for such time as is reasonably necessary during the Exit Period, to explain relevant procedures and operations (including management processes and other standards and procedures, but excluding Supplier Material) to the operations personnel of the Department and/or Successor Supplier, as directed by the Department.
- 4.4 The information and assistance which the Supplier provides to the Department and/or Successor Supplier, as directed by the Department, under Section 3.5 of this Annex 4-3 is subject to all confidentiality obligations or licence restrictions to which the Department is subject under the Agreement, including Section 7 of Annex 4-2 but, as a minimum, includes:

- 4.4.1 information about current project work for which the Department or a Successor Supplier will assume responsibility after the Termination Date;
- 4.4.2 copies of those Supplier Subcontracts (if any) which are to be transferred to the Successor Supplier; and
- 4.4.3 information regarding unresolved faults in the Supplier's Solution in progress at the commencement of the Exit Assistance as well as those expected to be in progress at the Services Transfer Date.

This information is to be updated by the Supplier at the Services Transfer Date.

- 4.5 After the appointment of the Successor Supplier, the Department may be accompanied by the Successor Supplier at project meetings with the Supplier regarding the fulfilment of the Services. The Supplier is to also consult the Department (and allow the Department to involve the Successor Supplier) about planned changes to the fulfilment of any of the Services Requirements.
- 4.6 The Supplier is to perform all Exit Assistance services as required in the Agreement, including under this Section 4 of Annex 4-3 of Schedule 4 (**Transition Management**) at no cost to either the Department or the Successor Supplier unless agreed to in writing between the Department and the Supplier.

5. SECURITY

- 5.1 The Supplier is to continue to comply with its security obligations in accordance with Schedule 3 (**Security**) in carrying out its obligations under this Schedule 4 (**Transition Management**).

ANNEX 4-4**TERMINATION AND TRANSFER TO THE SUCCESSOR SUPPLIER****1. INTRODUCTION**

- 1.1 This Annex 4-4 sets out the Exit Assistance to be provided by the Supplier to the Successor Supplier as directed by the Department on and from the Termination Date and during the Exit Period.

2. RESERVED**3. INTELLECTUAL PROPERTY RIGHTS**

- 3.1 With effect from the Termination Date or the date of Services Removal, the Supplier is to cease all use of, and return, the Department Software and the Department Materials in accordance with **Clause 28.2.2** of the **Terms and Conditions**.
- 3.2 Upon request from the Department to do so, the Supplier is to confirm in writing that it has complied in full with its obligations under Section 4.1 of this Annex 4-4.

4. REPORTING DURING THE EXIT PERIOD

- 4.1 The Supplier is to provide progress reports detailing the status of the exit tasks as against the Transition Out Plan, setting out any actual or anticipated problems or delays and the actions that the Supplier is taking to resolve such problems, as specified in Schedule 11 (**Reporting**).

5. SUPPLIER SUBCONTRACTS

- 5.1 During the Exit Period and in accordance with the Transition Out Plan, the Supplier is to not vary, terminate, assign, novate, purport to vary, nor allow any of the listed Supplier Subcontracts to expire without the Department's prior written consent, which consent will not be unreasonably withheld.
- 5.2 The Supplier is to provide a list of the Supplier Subcontracts to the Department and/or any Successor Supplier, as directed by the Department, if reasonably requested by the Department during the Exit Period.
- 5.3 The Department will notify to the Supplier which of the Supplier Subcontracts (if any) need to be assigned, novated or otherwise transferred from the Supplier to the Department and/or Successor Supplier (the "Transferring Subcontracts").
- 5.4 The Supplier is to liaise with the relevant Supplier Subcontractors to ensure, as far as it is able, the successful transfer, assignment or novation (as required) of the Transferring Subcontracts, including obtaining any transfer, assignment or novation agreements (as applicable) in a comparable form that is acceptable to the Department.

6. INTELLECTUAL PROPERTY RIGHTS**6.1 Software List**

- 6.1.1 The Supplier is to provide the inventory to be developed under **Clause 28.9** of the **Terms and Conditions** within twenty (20) Business Days after commencement of the Exit Period.

6.2 Supplier Software and Material

- 6.2.1 The Supplier is to grant the licence to the Department for Supplier Software and Supplier Material in the circumstances described in, and in accordance with, **Clause 28.3.3** of the **Terms and Conditions**.

6.3 Third Party Software and Material

- 6.3.1 The Department will notify to the Supplier which of the Third Party Software and Third Party Material (if any) it requires to be licensed to itself and/or Successor Supplier after the Termination Date (the "**Transferring IPR**"). The Transferring IPR is to not include any Third Party Software or Third Party Material for which the Department has, pursuant to **Clause 28.4.3** of the **Terms and Conditions**, waived the Supplier's obligation to obtain an IPR Transfer Right.
- 6.3.2 The Supplier is to liaise with the relevant third parties to ensure, as far as it is able, as applicable, the successful:
- (a) transfer, assignment or novation (as required) of the Transferring IPR to the Department or a Successor Supplier, including obtaining any transfer, assignment or novation agreements (as applicable) in a form that is acceptable to the Department; or
 - (b) grant to the Department or a Successor Supplier of a licence for the Transferring IPR on terms substantially similar to the terms of the Supplier's existing licence for such Transferring IPR.
- 6.3.3 Each party will bear its own legal and administrative costs in connection with the transfer of, or the grant of a licence for, the Transferring IPR. If the Department has agreed, pursuant to **Clause 28.4.3** of the **Terms and Conditions**, to waive the requirement for the Supplier to obtain an IPR Transfer Right or has agreed to pay any fee levied by the licensor for such transfer or grant, the Department will pay any fee levied by the licensor in connection with the transfer or grant of the Transferring IPR. In other circumstances where the Supplier has not negotiated an IPR Transfer Right, any fees levied by the licensor in connection with the transfer of the Transferring IPR is to be paid by the Supplier. The Department or the Successor Supplier is to pay the licence fees for the Transferring IPR after the Termination Date.

7. **DISPUTES**

- 7.1 During the Exit Period, the Supplier is to maintain and update a list of on-going and/or threatened disputes with third parties in relation to any of the Supplier's Solution or Supplier Subcontracts, and is to use its Commercially Reasonable Efforts to resolve such disputes.

SCHEDULE 5
PRICING

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PRICING**1. INTRODUCTION****1.1** s47C [REDACTED]

1.2 In this Schedule 5 (**Pricing**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. OVERVIEW

2.1 Except as otherwise stated below in this Schedule 5 (**Pricing**) or as agreed by the Parties in accordance with the Change Control Procedure, subject to the Agreement, Acceptance of any Services, the Services meeting the Service Levels and the Supplier fulfilling the Service Requirements:

2.1.1 the Department will pay to the Supplier the Service Charges; and

s47C [REDACTED]

in accordance with this Schedule 5 (**Pricing**) at the rate prescribed at Annex 5-1 below.

2.2 This Schedule 5 (**Pricing**) sets out:

2.2.1 the Annual Reviews; and

2.2.2 without limiting clause 12 of the **Terms and Conditions**, the Projected Volumes.

2.3 The cost elements which have formed the basis of the calculation of Service Charges s47C [REDACTED] are based on the version of the Cost Element Spreadsheet provided by the Supplier to the Department on **[INSERT DATE OF EXCHANGE]**. A high level summary of the cost elements are set out at Annex 5-1 and Annex 5-4. The parties have agreed that the Cost Element Spreadsheet of **[INSERT DATE OF EXCHANGE]** may be referred to for guidance in any future pricing discussions.

SERVICE CHARGES s47C [REDACTED]**3. ALL COSTS INCLUDED**

3.1 The Supplier acknowledges that the Supplier's costs have been allocated to the various elements of the Service Charges s47C [REDACTED] as set out in Annex 5-4.

3.2 The Supplier further acknowledges that the Service Charges s47C [REDACTED] set out in Annex 5-1:

3.2.1 are Service Charges s47C [REDACTED] expressed in Australian dollars (AUD);

3.2.2 include all the costs, payments and charges of providing the Services;

- 3.2.3 are calculated based on the costs, payments and charges making up the Service Charges ^{s47C} as set out in Annex 5-4; and
- 3.2.4 must be used as the basis for agreeing Changes that result in an adjustment to the Service Charges ^{s47C} during the Term of the Agreement.
- 3.3 Any Changes to the Service Charges ^{s47C} agreed through the Change Control Procedure as a result of a variation in scope or of the Services Requirements will follow the same principles of cost allocation set out in the Cost elements table (Annex 5-4).
4. **TRANSITION IN FEE**
- 4.1 The Transition In Fee is a separate fee specifically for the purpose of transitioning into the Services. The Supplier will be entitled to payment of the Transition In Fee identified in Annex 5-1 when, and only when, the Transition Milestones Readiness Criteria have been met.
5. **SERVICE CHARGE ^{s47C}**
- 5.1 Introduction and Overview
- 5.1.1 The Supplier is entitled to charge the Department a Service Charge ^{s47C} with respect to the provision of the Client Enquiry Services. The Department will notify the Supplier which Services are to be charged as Service Charges ^{s47C} in accordance with clause 13.3 of the **Terms and Conditions**.
- 5.1.2 ^{s47C}
- 5.1.3 The Service Charge ^{s47C} per Client Enquiry Service is set out in Annex 5-1 of this Schedule 5 (**Pricing**).
- 5.1.4 The Service Charge ^{s47C} must not exceed the agreed Service Charge ^{s47C} per Client Enquiry Service as set out in Annex 5-1 of this Schedule 5 (**Pricing**).
- 5.1.5 The Service Charges a ^{s47C} will be reviewed at the end of each Agreement Year in accordance with paragraph 7 below, and any Changes will be subject to Schedule 8 (**Change Control**).
- 5.1.6 The Service Charge ^{s47C} per Client Enquiry Service is all inclusive of the Supplier's costs unless specified otherwise.
6. **VOLUMES**
- 6.1 The Projected Volumes for the Services at the respective Go-Live Date are set out in Annex 5-2.
- 6.2 Subject to this section 6, if:
- 6.2.1 the number Client Enquiries does not exceed the Projected Volumes by 20%; and
- 6.2.2 the Supplier's Solution is unable to operate (from the relevant Effective Date),

then such failure:

- 6.2.3 is at the Supplier's risk and must be corrected by the Supplier, at the Supplier's cost; and
 - 6.2.4 is subject to the performance requirements specified in Schedule 6 (**Service Levels and Service Credits**).
- 6.3** If the number of Client Enquiries exceeds the Projected Volumes, the Supplier will remain under the obligation to provide the Services in accordance with the Service Levels and Service Credits as set out in this Schedule 5 (**Pricing**) and Schedule 6 (**Service Levels and Service Credits**), however the Parties will agree to the extent that the additional volume of Client Enquiries represent a Relief Event.
- 6.4** If the number of Client Enquiries in any two (2) consecutive months exceeds the corresponding Projected Volumes by 20% or more the Supplier must promptly notify the Department and the Parties will promptly meet and review the situation. The outcome of such review will be one of the following:
- 6.4.1 the Parties agree that the increase in volumes was a seasonal effect and volumes are likely to recede again, and no further action is taken; or
 - 6.4.2 the Parties agree that the increase in volumes was due to a change in the Supplier's activities; or
 - 6.4.3 the Parties agree that the increase in volumes is likely to be a repeated or permanent issue. In this case, the Department will, at its discretion, require the Supplier either to:
 - (a) provide a detailed proposal to rectify any issues;
 - (b) provide details of how the increased volumes will affect the Service Levels.
- 6.5** In the period following notification of the exceeded Projected Volumes in accordance with section 6.4 above until the implementation of a Change in accordance with the Change Control Procedure:
- 6.5.1 the Supplier must propose an interim client service model that continues the provision of the Services over and above the Projected Volumes; and
 - 6.5.2 the Department will allow a change in Service Charge ^{s47C} [REDACTED] for the Supplier for its demonstrable and reasonable additional costs, relating to the increased burden upon the Supplier required to maintain the required levels of Services, where those costs are not already included in the Service Charges ^{s47C} [REDACTED] provided that the Change Control Procedure as listed in Schedule 8 (**Change Control**) is followed.
- 6.6** If at any point the Department considers a course of action has resulted in an unjustifiable increase in the Supplier's revenue the Parties will meet to agree an appropriate adjustment to the Service Charges ^{s47C} [REDACTED]
- 7. ANNUAL REVIEW**
- 7.1** In accordance with Clause 5 of the **Terms and Conditions**, each year within 20 (twenty) Business Days after the end of the Agreement Year, the Department and the

Supplier will review certain aspects of the Service Charges ^{s47C} and agree any changes necessary to improve the value of the Services to the Department and to Clients. This review will include, but not be limited to, the following items:

- 7.1.1 continuous improvement mechanisms;
- 7.1.2 ^{s47C}
- 7.1.3 volume of Services consumed over the prior 12 months and the forecast for the next 12 months;
- 7.1.4 Service models in place and any recommended changes to these models;
- 7.1.5 any additional items that the Parties agree should be included in the Annual Review; and
- 7.1.6 the cost of living.

8. CHANGES

8.1 For the avoidance of doubt, any Changes to or adjustment of the Service Charges ^{s47} as a result of a change of scope of the Services or a change to the Business Requirements will only be made in accordance with either:

- 8.1.1 one of the adjustment mechanisms set out in this Schedule 5 (**Pricing**), or
- 8.1.2 otherwise as expressly agreed in accordance with the Change Control Procedure.

9. REDUCTION IN SERVICE CHARGES ^{s47C}

9.1 If the Supplier enters into an arrangement with a partner country of the Five Countries Conference (**FCC**) for provision of services substantially similar to the Services resulting in the Facilities or Assets being shared:

- 9.1.1 the Supplier must promptly notify the Department and the Parties must meet within 10 Business Days of notice to review the situation;
- 9.1.2 the parties must agree to a reasonable reduction in the Service Charges ^{s47C} effective from a date reasonably agreed between the Parties if efficiencies and cost savings are or may be achieved as a result of common service requirements and shared Facilities and Assets in relation to any arrangement with an FCC partner country;
- 9.1.3 all pricing negotiations held between the Parties must be conducted in good faith; and
- 9.1.4 a reduction in the Service Charges ^{s47C} must follow the Change Control Procedure as listed in Schedule 8 (**Change Control**).

10. ^{s47C}

10.1

s47C

11. CONTRACT EXTENSION

- 11.1** If the Term is extended beyond the Initial Term in accordance with **clause 4.2** of the **Terms and Conditions**, the Parties will review the Service Charges s47C and, in accordance with the principles of cost allocation set out in the Annex 5-4 and the current, as at the date of the extension, Cost Elements Spreadsheet. The Parties may revise the Service Charges s47C for the period of such extension based upon the Supplier's actual or reasonably predicted costs of fulfilling the Services Requirements during the period of such extension. This review process may result in the Service Charges or Service Charges s47C being increased or decreased. If agreement is not reached before such extension, payment for Services will continue on the basis of the Service Charges s47C applicable to the preceding year in accordance with this Schedule 5 (**Pricing**), until agreement or resolution.

ANNEX 5-1

SERVICE CHARGES s47C

TRANSITION IN FEE

The following tables detail the Transition In Fee:

Table 5-1-1: Transition In Fee

Transition In Fee	

SERVICE CHARGES

The following tables detail the Service Charges:

Table 5-1-2: Service Charge

Volume Base for Service Centre	
Contract Term	24 Months
Service Charge	

s47C

ANNEX 5-2

PROJECTED VOLUMES

The following table details the Projected Volumes of Client Enquiries.

Total Projected Volumes Client Enquiries:

Current Source	Calls	Email
Service Centres	2,200,000	75,000
Business Areas	800,000	25,000
Other	1,200,000	
Total	4,200,000.00	100,000.00

Business Areas – are expected to be integrated progressively in the first year of service delivery.

s47C

Historical Volumes Client Enquiries:

Total volume of enquiries Jan 2016 - Dec 2016 across Sydney, London and Ottawa											
	SSC				ESC				ASC		
Month	Calls received	Calls answered	Email enquiries received	Email enquiries answered	Calls received	Calls answered	Email enquiries received	Email enquiries answered	Calls received	Calls answered	Email enquiries received
Jan 2016	146,437	91,757	2,025	1,276	14,799	10,245	n/a	4,095	11,427	10,300	ASC does not support email enquiries
Feb 2016	164,296	115,955	2,092	1,159	14,685	11,323	n/a	4,512	11,030	9,681	
Mar 2016	159,265	119,572	2,068	1,123	12,795	9,903	n/a	3,823	10,738	9,691	
Apr 2016	147,643	107,920	2,472	1,271	11,416	9,324	n/a	3,558	10,677	9,905	
May 2016	155,625	106,083	2,443	970	11,983	9,349	n/a	3,683	11,277	10,314	
Jun 2016	143,962	100,028	2,244	1,353	13,731	10,107	n/a	3,448	11,622	10,640	
Jul 2016	156,408	96,647	1,368	933	15,036	9,927	3,498	3,559	12,479	10,000	
Aug 2016	174,954	114,073	1,854	883	14,862	10,189	3,518	4,066	13,835	11,311	
Sep 2016	146,517	106,537	1,957	1,091	14,926	10,217	3,394	3,583	12,787	10,098	
Oct 2016	140,742	105,982	2,217	1,008	13,182	7,897	3,752	3,365	14,254	11,275	
Nov 2016	155,725	108,634	1,728	822	13,016	9,072	3,934	4,498	14,407	10,362	
Dec 2016	119,763	99,888	2,032	1,324	9,223	6,873	4,408	3,707	9,293	6,331	
Total	1,811,337	1,273,076	24,500	13,213	159,654	114,426	22,504	45,897	143,826	119,908	-

ANNEX 5-3

s47C

ANNEX 5-4

COST ELEMENTS

The following tables details the Cost Elements:

Table 5-4-1 - Cost Elements

All figures are presented in Australian Dollars, inclusive of all associated Taxes	
Transition In Fee	
Set up	
Facilities	
Advertising	
Recruitment	
Training	
Management Costs	
Client Enquiry Supplier Personnel Costs	
Service Charge	
Phone	
Email	
WebChat	
Other	

s47C



SCHEDULE 6
SERVICE LEVELS AND SERVICE CREDITS

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SERVICE LEVELS AND SERVICE CREDITS

1. GENERAL PROVISIONS

1.1 Introduction

1.1.1 This Schedule 6 (**Service Levels and Service Credits**) sets out:

- (a) the Service Levels and Service Credits and other criteria against which the Supplier's fulfilment of the Services Requirements must be measured;
- (b) the process by which Service Levels and Service Credits are added, amended or removed;
- (c) the Supplier's obligation to continually improve the Service Levels and Service Credits;
- (d) the process by which the Service Credits and Tools to be used are agreed;
- (e) the Supplier's requirement to report on its performance against the Service Levels and Service Credits;
- (f) the remedial activities to be undertaken when a Service Level and Service Credit Default occurs;
- (g) the consequences of Service Level and Service Credit Default; and
- (h) the ability of the Department to require the Supplier to carry out quality audits on an 'as required' basis.

1.1.2 The objectives of this Schedule 6 (**Service Levels and Service Credits**) are to:

- (a) ensure that the Supplier's performance meets the Department's business and regulatory requirements;
- (b) give sole responsibility to the Supplier for the end-to-end Service;
- (c) provide a mechanism designed to highlight performance failures;
- (d) provide measurements and information for identifying causes of failure and rectifying them;
- (e) ensure root causes of performance failures are identified and resolved;
- (f) provide incentive to the Supplier to perform the Services at the required level by, where there is a Service Level Default, providing restrictions on:

(i) s47C [REDACTED]

(ii) s47C [REDACTED]

(iii)

s47C

- (g) address the continuous improvement of Service Levels and Service Credits;
- (h) in respect of Services for which a Service Charge is applicable, provide a price adjustment to the Department where Service Levels are not met, through the application of Service Credits offsetting any claim for Service Charges (if any);
- (i) s47C

1.1.3 The Supplier must perform the Services so as to achieve or exceed the Service Levels at all times.

1.1.4 The Service Levels and their measurements, as set out in this Schedule 6 (**Service Levels and Service Credits**), are intended to measure whether the Supplier is meeting the levels of performance necessary to satisfy the Department's business and regulatory requirements. Accordingly, the Service Levels and Service Credits:

- (a) will be regularly reviewed by the Parties in accordance with **clause 9.2** of the **Terms and Conditions**;
- (b) are subject to continuous improvement objectives, as set out in Section 2.3 and **Clause 9.2** of the **Terms and Conditions**; and
- (c) may be added to, amended or deleted during the Term, in accordance with Section 2.3,

in order to achieve the accurate and consistent measurement of the Supplier's performance of the Services.

1.1.5 Unless and solely to the extent that a Service Level Default is caused by a Relief Event, the Supplier must allocate and report Service Credits to the Department, calculated in accordance with Section 5.6, if the Supplier commits a Service Level Default.

1.2 Annexes

The following Annexes are appended to this Schedule 6 (**Service Levels and Service Credits**) and are hereby incorporated by reference:

Annex 6-1 Service Levels and Service Credits Matrix

1.3 Definitions

In this Schedule 6 (**Service Levels and Service Credits**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SERVICE LEVELS AND SERVICE CREDITS**2.1 Performance**

- 2.1.1 The Supplier must, unless otherwise agreed with the Department, commence measuring the Service Levels and Service Credits from the relevant Effective Date(s).
- 2.1.2 Except as otherwise stated in this Schedule 6 (**Service Levels and Service Credits**), commencing on the relevant Effective Date(s), the Supplier must meet or exceed the Service Level Target for each Service Level set out in the Service Levels and Service Credits Matrix at Annex 6-1.

2.2 Additions, Amendments and Deletions of Service Levels and Service Credits – after the Effective Date

The Department may add, amend or delete Service Levels and Service Credits at its discretion, as follows:

2.2.1 **Additions:** the Department may add Service Levels and Service Credits by sending a written notice to the Supplier at least forty (40) Business Days prior to the date that such additions to the Service Levels and Service Credits are to be effective. New Service Levels and Service Credits must be implemented through the Change Control Procedure and established in one of the following ways:

- (a) where measurement data exist for the fulfilment of a particular Services Requirement, the Service Level Target must be established as the average of such measurements for the six (6) month period prior to the date of the Department's notice unless otherwise agreed by the Parties or agreed by reference to industry standard measures as described in Section 2.2.1(b) below; or
- (b) where no measurement data exists for the fulfilment of a particular Services Requirement:
 - (i) the Parties will attempt to agree (acting reasonably and in good faith) on a Service Level Target which meets Good Industry Practice using industry-standard measures or third party data, information and/or advisory services (for example, Gartner Group, Compass Group or Meta Group); and
 - (ii) if the Parties fail to agree the Service Level Targets and associated Service Credits prior to the date specified by the Department for the Service Level to become effective (the "**Intended Date**"), which will be no earlier than forty (40) Business Days after the date of the notice from the Department, the Supplier must:
 - (1) measure the actual performance of the particular Service for a six (6) month period from the Intended Date (subject to the Supplier using Commercially Reasonable Efforts to perform the particular Services Requirement to its best ability) using Tools approved in advance by the Department; and

- (2) the Service Level Target will be established in accordance with the principles in Section 2.2.1(a), calculated using the measurements collected in accordance with 2.2.1(b)(ii)(1), and such Service Level Target must be effective from the end of that six (6) month measurement period.

2.2.2 **Amendments:** as part of the Annual Review process and in accordance with Section 2.3 and **clause 9.2** of the **Terms and Conditions**, the Parties will review and adjust the Service Levels and/or Service Credits to ensure that they reflect the Supplier's obligations to continually improve its Service delivery.

2.2.3 **Deletions:** the Department may delete Service Levels by sending a written notice to the Supplier at least twenty (20) Business Days prior to the date that such deletions to Service Levels are to be effective. Deletions of Service Levels will be implemented as a Non-Chargeable Change through the Change Control Procedure.

2.3 Continuous Improvement

2.3.1 The Service Level Targets may be modified during the Term to reflect the principle of continuous improvement of Service performance. As part of the Annual Review process the Parties will review and adjust the Service Level Targets to ensure that they reflect the Supplier's obligations to continually improve the Service Levels as set out in this Section 2.3 and **Clause 9.2** of the **Terms and Conditions**.

2.3.2 As part of the Annual Review of the Service Levels, the Parties will assess the Supplier's performance against each Service Level in the twelve (12) months immediately preceding the Annual Review:

- (a) if the Supplier has demonstrated a consistent performance in excess of the Service Level Target (where applicable), the Parties will discuss and seek to agree an appropriate upwards adjustment to the Service Level Target to reflect the Supplier's performance;
- (b) no upwards adjustment to such Service Level will be made if, in respect of the Service Level, the annual mean average of the actual performance results in the twelve (12) month period immediately preceding such review is lower than the Service Level Target;
- (c) if the Department reasonably determines that incidents of one (1) or more Service Level Defaults were avoidable or easily treatable by the Supplier, or the Supplier failed to take whatever action was reasonably necessary to fix the root cause of the failure, then each incident so determined by the Department will be removed from the calculation for the relevant month and the annual mean average will be recalculated using the adjusted calculations for the relevant months; and
- (d) Service Level Targets cannot be decreased without the express written consent of the Department.

- 2.3.3 The adjustment of Service Level Targets and/or Service Credits pursuant to this Section 2.3 must be agreed and recorded through the Change Control Procedure as a Non-Chargeable Change.
- 2.3.4 The annual mean average specified in Section 2.3.2 is calculated for each Service Level as the sum of the monthly performance results for the twelve (12) months subject to the Annual Review, divided by twelve (12).

3. MEASUREMENT AND REPORTING

3.1 Use of Tools (as defined in Schedule 1 (Definitions and Agreement Particulars))

- 3.1.1 Unless otherwise identified in Annex 6-1, as applicable, the Tools to be used by the Supplier to monitor each Service Level must be agreed by the Parties prior to the start date for measurement of each Service Level. If the Supplier fails to propose a Tool that is acceptable to the Department for any Service Level prior to the relevant date, such failure to propose an acceptable Tool is deemed a Service Level Default for such Service Level until the Supplier proposes an acceptable Tool.
- 3.1.2 If, after such agreement of an acceptable Tool, the Supplier wants to use a different Tool for a Service Level, the Supplier must provide written notice to the Department informing the Department of this and providing all relevant information about the proposed Tool. the Department will consider the request and, if the Department approves it, the Parties will adjust the measurements as necessary to account for any increased or decreased sensitivity in the new Tool, provided that, if the Parties cannot agree on the required adjustment, the Supplier must continue to use the Tool that had been initially agreed by the Parties.
- 3.1.3 For each month that the Supplier fails to measure Service Level performance for a Service Level in accordance with the agreed measurement methodology and Tool, it will be deemed to be a Service Level Default for such Service Level.
- 3.1.4 It is not anticipated that changes in the Tool will cause Changes in Service Levels; rather, the need to collect and accurately reflect the performance data should drive the development or change in (and enhancement to) a Tool.

3.2 Performance Reporting

- 3.2.1 Unless otherwise specified in this Schedule 6 (**Service Levels and Service Credits**), each Service Level must be measured on a periodic basis by the Supplier in accordance with the relevant Measurement Period and reported by the Supplier in the Monthly Service Report specified in, and delivered in accordance with the timetable set out in Schedule 11 (**Reporting**).
- 3.2.2 the Department will provide to the Supplier such performance data within its control as is reasonably required by the Supplier to measure the achievement of the Service Levels.
- 3.2.3 The Supplier must set out its achievement against all Service Levels in the Monthly Service Report. The Monthly Service Report must provide such detail as is required by the Department to verify the Supplier's performance against the Service Levels in the table at Annex 6-1. To the extent not agreed by the

Parties in Schedule 11 (**Reporting**), the Parties will, within twenty (20) Business Days after the Effective Date, agree the standard format and content of the Monthly Service Report.

3.3 Client Satisfaction

3.3.1 The Supplier must take the steps in Section 3.3.2 to monitor, maintain and enhance the satisfaction of Applicants and the Department Personnel specified by the Department in the quality of the Services provided by the Supplier.

3.3.2 The Supplier must:

- (a) perform, in co-ordination with the Department, comprehensive satisfaction surveys of Clients and the Department Personnel specified by the Department according to agreed procedures, frequency and metrics ("**Client Satisfaction Surveys**") and ensure that full analysis of the results of such surveys are reported to the Department through the Contract Managers, as detailed in Schedule 7 (**Governance**);
- (b) ensure that each Client has the opportunity to complete a Client Satisfaction Survey;
- (c) implement procedures to ensure the capture of feedback from Clients in respect of the Services, including providing a clear and straightforward process through which Applicants may make a complaint and reporting such complaints promptly to the Department; and
- (d) attend, as required by the Department, meetings with the Department's representatives to discuss the results of the Client Satisfaction Surveys and address any issues arising from such results.

3.3.3 The Supplier is to ensure that the results of the Client Satisfaction Surveys demonstrate a continuous improvement in the levels of satisfaction of Applicants and surveyed the Department Personnel.

3.3.4 The Department is entitled, either itself or through an appointed third party, to conduct its own Client Satisfaction Surveys to complement or verify the results of the Supplier-conducted Client Satisfaction Surveys.

4. SERVICE LEVEL AND SERVICE CREDIT DEFAULTS AND REMEDIAL ACTIVITIES

4.1 Failure to Perform

In addition to remedial activities specified in Section 5.5 in respect of each Service Level and Service Credit Default, the Supplier must:

- 4.1.1 take whatever action is reasonably necessary to minimise the impact of the failure and prevent it from recurring;
- 4.1.2 notify the Department as soon as the Supplier becomes aware of such failure;

- 4.1.3 carry out a root cause analysis to investigate the underlying causes of the failure and use its Commercially Reasonable Efforts to preserve any data indicating the cause of the failure;
- 4.1.4 correct the failure and immediately resume fulfilment of the Services Requirements to meet the applicable Service Level;
- 4.1.5 prepare and deliver to the Department a report identifying the failure and, where possible, its cause, business impact, remedial plans, timescales for improvement plans and any impact on the fulfilment of the Services Requirements; and
- 4.1.6 advise the Department, as and to the extent requested by the Department, of the status of all remedial efforts being undertaken by the Supplier with respect to the underlying cause of the failure.

4.2 Escalation

- 4.2.1 Section 5.5 sets out various escalation requirements in relation to Service Level and Service Credit Defaults.
- 4.2.2 If there are significant, multiple or repeat Service Level and Service Credit Defaults, the Department may require the Supplier to escalate the relevant Service Level and Service Credit Defaults in accordance with Schedule 7 (**Governance**).
- 4.2.3 If the Department determines that the Supplier is not taking appropriate or sufficient steps to remedy the root cause of any Service Level and Service Credit Default as required under Section 4.1 above, the Department may require the Supplier's senior executives to attend a meeting of the Contract Managers as specified in Schedule 7 (**Governance**) and agree the additional remedial efforts which need to be undertaken by the Supplier.

4.3 Co-operation

- 4.3.1 The achievement of the Service Levels and Service Credits by the Supplier may require the coordinated, collaborative effort of the Supplier with other service providers, vendors and other third parties contracted with or by the Department. The Supplier must provide a single point of contact for the prompt resolution of all Service Level and Service Credit Defaults and all other performance related issues.

4.4 Grace Period

- 4.4.1 The Grace Period for Service Levels and Service Credits under this Agreement is set to a three (3) month period from the initial Go-Live date for the Services. No Grace Period will apply for Services commencing after the first three (3) months of the Term.

5. PERFORMANCE MANAGEMENT

5.1 General Principles

- 5.1.1 Annex 6-1 sets out the Service Levels and Service Credits.

5.1.2 Where a Service Level specifies more than one (1) Service Level Target, the failure by the Supplier to meet any one of those Service Level Targets is deemed to be a Service Level Default.

5.2 Cap on Number of Service Levels and Service Credits

5.2.1 The overall number of Service Levels must not exceed seven (7).

5.2.2 If the Department wishes to increase the total number of Service Levels beyond seven (7), then the Parties will agree such increase in accordance with the Change Control Procedures.

5.3 Service Level and Service Credit Default

5.3.1 In the event of a Service Level Default in any calendar month, the Department may enact the following performance management actions:

s47C



(d) calculate and apply Service Level Credits set out in Section 5.5 below.

5.3.2 The Supplier must perform remedial activities set out in Section 4.1 for all Service Level Defaults.

5.3.3 The performance of the Service Centre(s) is to be escalated to the Contract Manager within ten (10) Business Days after the end of the relevant month in the event of repeat instances of Service Level Default. Nothing in this Section 5.3 relieves the Supplier's requirement to escalate issues of importance to the Department once identified, in accordance with Schedule 7 (**Governance**).

5.4 Performance Improvement

5.4.1 The Supplier will have Performance Improvement opportunities as follows:

- (a) within fifteen (15) Business Days after the end of each Agreement Year, the Supplier must provide an End of Year Performance Report to the Department that includes, with respect to each Service Level for which there was a Service Level Default during the preceding Agreement Year, the following:
 - (i) statistics on the Supplier's Monthly Service Level performance during the preceding Agreement Year;
 - (ii) the Yearly Performance Average; and
 - (iii) any performance management action taken with respect to the Service Level.

- (b) if, during the preceding Agreement Year, the Supplier achieved a Yearly Performance Average in a Service Level that was greater than, or equal to, the Service Level Target, then the Supplier may in respect of any Service Level Defaults against that Service Level during the preceding Agreement Year, request the Department:
 - (i) not to enact the performance management actions; or
 - (ii) where performance management action has already been taken, to cease the performance management action;
- (c) if, during the preceding Agreement Year, the Department deletes a Service Level in accordance with Section 2.2, the Supplier may report the Service Level Defaults against that Service Level as no longer applicable;
- (d) if, during the preceding Agreement Year, the Department adds a Service Level, the Supplier must calculate the Yearly Performance Average for such Agreement Year based on twelve (12) months of data by;
 - (i) using all available performance measures for such Agreement Year, including measurements obtained during any baselining period; and
 - (ii) substituting the Service Level Target for the missing month's measurement value.

5.5 Remedial Activities and Service Credits for repeated failures

5.5.1 In addition to the provision of Sections 4.1 and 4.2 above, the following procedures will apply, if an Extended Service Level Default occurs:

- (a) the Supplier must promptly contact the Department and the Parties will review the need for a “**Recovery Plan**”. The scope, format and implementation of all Recovery Plans will be agreed by the Parties within five (5) Business Days after the Effective Date and incorporated into the Supplier's and the Department's Procedures Manual;
- (b) the status of implementation of the Recovery Plan must be reported by the Supplier on a weekly basis (simple written report) and will be reviewed by the Parties as part of the regular meetings in accordance with Schedule 7 (**Governance**); and
- (c) if, on the expiry of the Recovery Plan, the relevant Service Level performance under review remains below the relevant Service Level Target set out in Annex 6-1, then:
 - (i) the process set out in this Section 5.5 will be repeated, at the Department's sole discretion; or
 - (ii) the Department may escalate resolution of the Service Level performance in accordance with Schedule 7 (**Governance**), at the Department's sole discretion; or

- (iii) the Department will calculate Service Credits for services or areas identified where:
 - a. Minimum benchmark score and corresponding threshold requirements for each Service Level line item has not been met against the stated target (i.e., 100% of the service must be met 100% of the time).
 - b. the applicable Service Level measurement period has been completed and associated reporting has occurred to allow for measurement of Service Level achievement;
 - c. the application of Service Credits will be at the Department's sole discretion, reserving it's right to apply Service Credits prior to, or following the Recovery Plan as listed in Section 5.5 above; and
 - d. Service credits are calculated against the tables set out in Annex 6-1.

5.6 Application of Service Credits

5.6.1 Service credits are calculated against the tables set out in Annex 6-1 for applicable Service Credit Allocations that apply if any Service Level Default occurs in the relevant month. To incentivise the Supplier to quickly and effectively remedy Service Level Defaults, a multiplier mechanism may be in place which may increase the applicable Service Credit Allocations for repeated Service Level Defaults.

5.6.2 For all Service Credits which the Department notifies the Supplier in writing are now due, in accordance with **clause 11.3** of the **Terms and Conditions**, which have been accrued in accordance with this section 5, the Supplier must:

- (a) s47C
- (b) for Enquiry Services for which s47C is payable add the Service Credits to a Service Credit "bank". The Service Credit "bank" must be available to the Department upon request for additional and/or a change of business requirements for the life of the Agreement; and/or
- (c) s47C

5.6.3 If, at the end of the Term, no more invoices will be submitted by the Supplier, the Supplier must pay any Service Credits owing to the Department by the date specified in the notice (where applicable).

5.6.4 In accordance with **clause 11.2** of the **Terms and Conditions**, payment of Service Credits is without prejudice to the Department's rights to recover Losses from the Supplier or to other remedies available to the Department. Any Claim for damages for a Default or failure where a Service Credit has

already been received by the Department will be reduced by the amount of that Service Credit.

5.7 Service Credit Cap

5.7.1 Except as set out in Section 5, the aggregate amount of Service Credits accrued to the Department with respect to all Service Level Defaults occurring in any calendar month will not exceed, in total, 25% of the aggregate Service Charge ^{s47C} collected by the Supplier ("**Service Credit Cap**").

5.7.2 The aggregate amount of Service Credits accrued to the Department in any one (1) calendar month may exceed the Service Credit Cap if the Parties discover that Service Credits are attributable to the Supplier's failure to meet any one (1) or more Service Levels in earlier months. For example, an Audit may reveal that, in an earlier month, the Supplier actually failed to meet certain Service Levels, which were reported in error as having been met. In this example, in addition to the Service Credits accrued in the current month (which cannot exceed the Service Credit Cap for that current calendar month), the Service Credits attributable to earlier Service Level Defaults will also be accrued to the Department, provided that, when separately calculated, they do not exceed the Service Credit Cap for that prior calendar month.

6. EXCLUSIONS

6.1 In calculating the Supplier's compliance with the Service Levels and Service Credits, events for which the root cause is determined to be one (1) or more of the following will not be included in such calculations (unless the event is the result of acts or omissions of the Supplier):

6.1.1 any event arising as a direct consequence of a Relief Event as set out in **clause 44** of the **Terms and Conditions**;

6.1.2 any action taken by the Supplier at the authorised request of the Department contrary to the express, reasonable advice of the Supplier; or

6.1.3 the Department's failure to fulfil its obligations under the Agreement.

7. QUALITY AUDITS

7.1 Supplier Quality Audit

7.1.1 Where the Supplier identifies a failure through its own quality audit process and the Supplier brings that failure to the attention of the Department then the failure will be 'self-reported' for the purposes of measuring the 'Audit Quality' measure in Annex 6-1, providing:

- (a) the Department has not discovered the failure prior to the Supplier reporting the failure to the Department; or
- (b) the Department has not, at the time the failure is reported by the Supplier to the Department, commenced a quality audit that the Department reasonably considers would have discovered the failure.

7.2 Audit Support

- 7.2.1 On request by the Department, the Supplier must provide a representative sample of data entries from the Service Levels in order to verify the accuracy and completeness of the Supplier's fulfilment of the Services Requirements.
- 7.2.2 On request by the Department, the Supplier must provide the Department with access to the Supplier systems for the purpose of verifying the accuracy and completeness of the Supplier's fulfilment of the Services Requirements.

7.3 Audit Process

- 7.3.1 The records relating to the representative sample to be audited must be checked against the criteria specified below or other criteria as agreed by the Parties. The criteria must be marked either as a yes (compliant) or a no (non-compliant) answer in respect of each such criteria.
- (a) s47C Service Charges have been applied correctly (severe);
 - (b) all required POI checks have been undertaken prior to using Client Data (severe);
 - (c) the Supplier has implemented an action plan to remedy a failure (major);
 - (d) the Client Enquiries have been Escalated appropriately (major)
 - (e) the reported information is correct (major);
 - (f) the Supplier has, and adheres to, a certified QMS (minor);
 - (g) the Supplier has, and adheres to, the required Plan(s) (minor);
 - (h) all approvals and consents have been obtained from the Department as required by the Agreement (minor);
 - (i) all obligations have been met (minor); and
 - (j) correct problem escalation has occurred at appropriate intervals.
- 7.3.2 In addition to regular audits, the Department may conduct random reviews of the Supplier's Services, mystery shopping and/or dummy Enquires to assist in the measurement of the Service Level through the identification of non-compliances.
- 7.3.3 The Department will provide the Supplier with a report after each audit undertaken by the Department including, if applicable, evidence such as copies of documentation of the failure.

7.4 Scoring

- 7.4.1 In respect of each such quality audit, the Parties will agree the results of the audit and the number of compliant and non-compliant Service Levels.

7.5 Remedial Action

- 7.5.1 In the event that Service Levels are not achieved in respect of any quality audit, the Supplier must produce an action plan to remedy the failure, notwithstanding the application of Service Level Default Actions under the Agreement.
- 7.5.2 A failure will continue to be reported monthly until the Supplier has provided evidence that the failure has been rectified or, at the Department's absolute discretion, the Department considers the Supplier has implemented the processes required to rectify the failure in a reasonable period.

ANNEX 6-1

SERVICE LEVELS AND SERVICE CREDITS

All Service Level Targets are at 100% unless otherwise indicated

All Service Levels are to be measured on a **monthly** basis, unless otherwise indicated

All amounts listed are **AUD** amounts

A failure in one Service Level does not preclude a failure in another Service Level

Service Level	Service Level Targets	Acceptable Tolerance Level	Applicable Service Credit	Reference
1. REPORTING	<p>The Supplier must provide the Department with reports in accordance with Schedule 2 (Business Requirements & Supplier Solution) and Schedule 11 (Reporting)</p> <ol style="list-style-type: none"> 100% of required reports are provided to the Department in accordance with Schedule 11 (Reporting) 100% of required reports are provided within the nominated timeframes in accordance with Schedule 11 (Reporting). 100% of required reports meet the format and quality requirements in accordance with Schedule 11 (Reporting). 	<ol style="list-style-type: none"> Zero instances of a missing report per month One instance of a late report per month One instance of a sub-standard report per month 	For every instance greater than the acceptable tolerance error a service credit of \$1000 per instance will apply.	Schedule 2 & 11
	<p>Measurement</p> <ol style="list-style-type: none"> The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports correctly provided to the Department. The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports received within the nominated timeframe by the Department. The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports that meet the format and quality requirements. 			

<p>2.</p> <p>QUALITY AUDIT</p>	<p>The Supplier must pass the quality audits conducted by itself or by the Department to a satisfactory level, namely all Service Requirements of the Agreement have been met and all information reported to the Department is accurate.</p> <p>1. 100% of the Service Requirements have been met; and 100% of information reported to the Department is accurate.</p> <hr/> <p><u>Measurement</u></p> <p>1. The measure is determined by adding together the number of Failure Points for the month. The Failure Points are determined by multiplying the number of instances of non-compliance discovered by the severity of the non-compliance.</p> <p>For instances that are not self-reported by the Supplier the severity factor is:</p> <p>10 for severe non-compliances; 5 for major non-compliances; and 2 for minor non-compliances.</p> <p>For instances that are self-reported by the Supplier the severity factor is:</p> <p>5 for severe non-compliances; 2 for major non-compliances; and 1 for minor non-compliances.</p>	Nil	<p>The list as follows presents the Applicable Service Credits that will apply.</p> <p>1 - 4 Failure Points = \$250 per Failure Point</p> <p>5 - 7 Failure Points = \$500 per Failure Point</p> <p>8 - 10 Failure Points = \$750 per Failure Point</p> <p>11 or more Failure Points = \$1000 per Failure Point</p> <p>For example:</p> <p>2 Failure Points = \$500 Service Credit</p> <p>8 Failure Points = \$6000 Service Credit</p> <p>12 Failure Points = \$12000 Service Credit</p>	Schedule 6
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3. FEES	<p>The Supplier must invoice the Department the correct amount for Service Charges ^{s47C} [REDACTED]</p> <p>1. 100% of Service Charges ^{s47C} [REDACTED] are claimed from the Department ^{s47C} [REDACTED] at the applicable rate agreed in Schedule 5 (Pricing).</p>	1. Zero instances of overcharging	For each instance where the measurement is positive a service credit of \$100 per instance will apply.	Schedule 2 Service Requirement 3.38.2 And 3.38.9
	<p><u>Measurement:</u></p> <p>1. The number of times the value of each Service Charge ^{s47C} [REDACTED] in Schedule 5 (Pricing) minus the value of each Service Charge ^{s47C} [REDACTED] actually charged is positive.</p> <p>a) The Department may conduct random reconciliation or audit activities to allow for the accurate measurement of the collection of the Service Charges ^{s47C} [REDACTED].</p> <p>b) The payment of a Service Credit (if any) under this performance measure does not alleviate the requirement (if any) to reimburse the Department ^{s47C} [REDACTED] as required under the Agreement.</p>			

<p>4.</p> <p>SERVICE DELIVERY</p>	<p>Enquiries received by email, telephone, and through website services must be responded to in a timely manner, with the availability of respective systems and accurate information.</p> <ol style="list-style-type: none"> 1. WebForm enquiries received to be answered within 8 Business Hours. 2. Calls are to be answered and speaking to an operator to answer Enquiries within ninety (90) seconds 3. Client-initiated WebChats to be accepted by an operator 4. Web search function available for search 24 hours, 7 days a week. This excludes “planned downtime” as previously notified by the Supplier to the Department. 5. WebForm available for submission 24 hours, 7 days a week. This excludes “planned downtime” as previously notified by the Supplier to the Department. 6. WebChat available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 7. Ticket Management available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 8. Knowledge Management available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 9. Client Enquiries escalated to Tier 3 meet the definition of Tier 3. 10. Client Enquiries meeting the definition of Tier 3 Escalated to Tier 3. 11. Call recordings are available to the Department between 1 day and 3 months after the Call took place. 	<ol style="list-style-type: none"> 1. 95% 2. 95% 3. 95% 4. 100% 5. 100% 6. 100% 7. 100% 8. 100% 9. 100% 10. 100% 11. 100% 12. 100% 13. 100% 14. 100% 	<p>For:</p> <p>1-3 - each percentage point not achieved against the benchmark requirement within the tolerance level a service credit of \$500 per percentage point will apply.</p> <p>4-14 - for each percentage point not achieved against the benchmark requirement a service credit of \$1000 per percentage point will apply.</p>	<p>Schedule 2</p> <p>Service Requirement 3.11.3</p> <p>And</p> <p>3.13.2</p>
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	<div data-bbox="398 240 1355 544"><p>12. Enquiry transcripts available in English, and the original language of the Enquiry where different, available to the Department according to the agreed Enquiry Handling Operations Plan between 1 day and 3 months after the Enquiry took place.</p><p>13. Case Information available according to the agreed Enquiry Handling Operations Plan between 1 day and 3 months after the Enquiry took place.</p><p>14. Updates requested by the Department made according to the agreed Enquiry Handling Operations Plan</p></div> <div data-bbox="353 544 1377 1418"><p><u>Measurement</u></p><p>1-3,9-14 The number actions complete / total number of actions X 100 (rounded down to nearest whole number)</p><p>4-8 The number of hours available / total number of hours X 100 (rounded down to nearest whole number)</p><p>a) The Supplier must provide monthly Interaction reports detailing the number of Enquiries received by Access Point and the nature of the Enquiry. This report must detail the date and time the Enquiry was received and answered. The Report must also list the total waiting time for each phone call and the number of calls abandoned; and</p><p>b) Supplier must be able to be capable of identifying and reporting any system and/or website downtime on a monthly basis to the Department;</p><p>c) The Department may conduct random reviews of the Supplier’s Services, mystery shopping and/or dummy Enquires to assist in the measurement of the Service Level; and</p><p>d) Customer complaints in relation to system and/or Website access may be subject to further investigation by the Supplier and/or the Department to identify associated downtime periods and/or timing of Enquiries being answered</p></div>			
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**SCHEDULE 7
GOVERNANCE**

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GOVERNANCE

1. INTRODUCTION

- 1.1 This Schedule 7 (**Governance**) sets out the governance structure for the Agreement, the roles and responsibilities of all Parties to maintain an effective working relationship and the type, content and frequency of management review meetings that are required to take place.
- 1.2 The governance structure set out in this Schedule 7 (**Governance**) will be implemented in accordance with the principles contained in this Schedule 7 (**Governance**), which are designed to ensure that:
- 1.2.1 a forum for co-operative and proactive management of the Agreement is established so that the Agreement is performed as required;
 - 1.2.2 the Services are provided professionally, and in accordance with the Agreement;
 - 1.2.3 the Services meet the Services Requirements;
 - 1.2.4 the provision of the Services is constantly monitored to ensure compliance with Performance Standards, and that appropriate and timely action is taken to deal with any problems or issues;
 - 1.2.5 the Services are performed in accordance with the Department's compliance, audit and risk management requirements;
 - 1.2.6 the Supplier undertakes its responsibilities in a timely and professional manner;
 - 1.2.7 the governance structure is kept up to date and modified, as appropriate, to comply with the changing requirements of the Department, including updates to Commonwealth or Department Policies;
 - 1.2.8 potential problems and issues are identified early, and any identified problems and issues and any disputes are resolved promptly in a co-operative manner;
 - 1.2.9 each specific Transition Plan is governed according to the provisions outlined in this Schedule 7 (**Governance**);
 - 1.2.10 Changes are managed correctly and are monitored; and
 - 1.2.11 Exit Assistance is managed effectively.

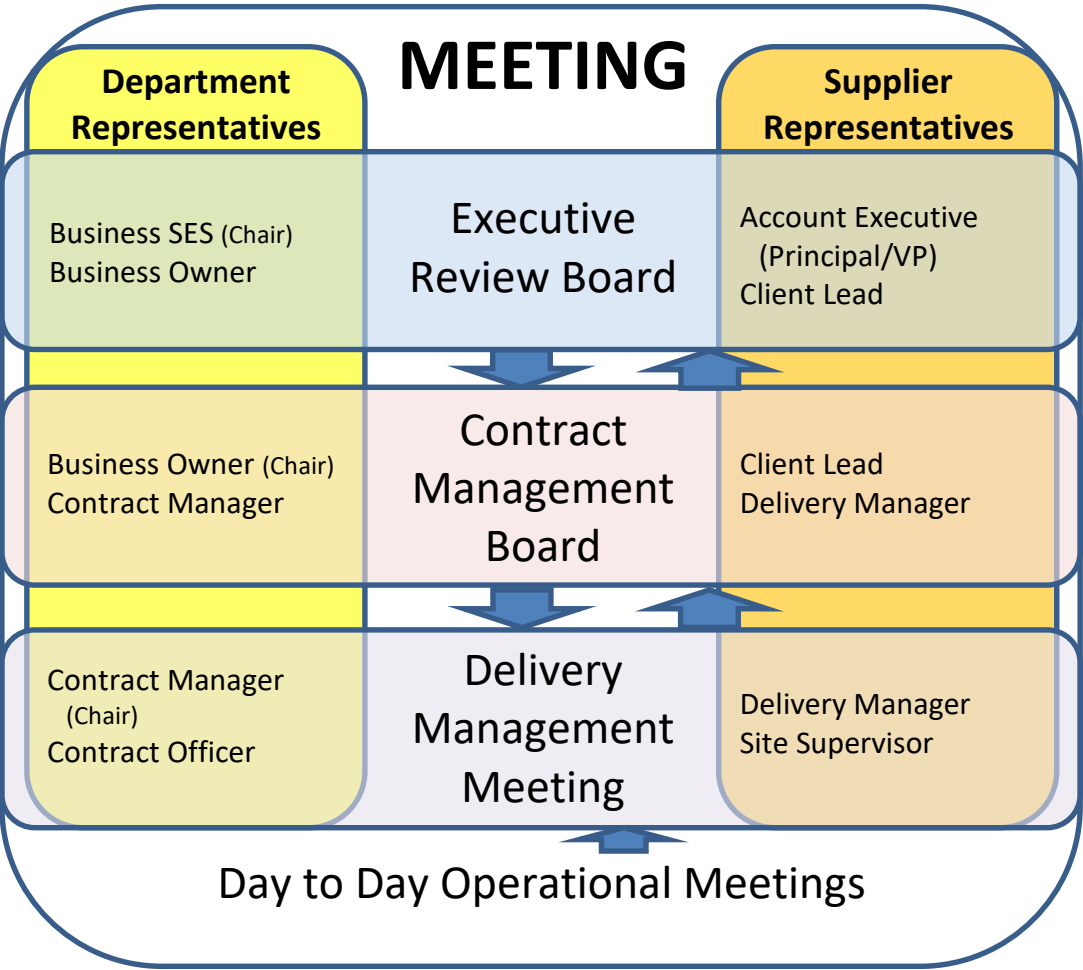
2. SCOPE

- 2.1 Nothing in this Schedule 7 (**Governance**) is intended to or limits any obligations of either Party set out elsewhere in the Agreement.
- 2.2 The inclusion or exclusion of any matter in the list of matters to be discussed in a particular forum is not intended to affect, or to be used to interpret, the scope of the obligations imposed on either Party elsewhere in the Agreement.

2.3 The governance structures outlined in the Agreement must be in place before the Supplier starts to offer any Services in any Country. The Parties will be individually responsible for putting in place their respective governance structures and teams required to deliver the governance structures outlined in the Agreement.

3. OVERVIEW AND PRINCIPLES

- 3.1 A four (4) tiered management approach will be adopted for the purposes of managing the Agreement.
- 3.2 The diagram below and following paragraphs outline the hierarchy and purposes of the four (4) tiers for the management of the Agreement:



3.1 All meetings are to be held on the Department's premises in Canberra, unless otherwise agreed by the Parties.

4. EXECUTIVE REVIEW BOARD

4.1 As soon as practicable, but in any event no later than one (1) month, after the Effective Date, the Parties will establish an Executive Review Board (ERB). Meetings will initially take place bi-annually from the Effective Date or otherwise as agreed by the Parties. The ERB is not intended to be involved in day-to-day management of the Agreement. The purpose of the ERB is to provide high level strategic oversight of the Agreement and provide guidance for future development of Services.

- 4.2 On and from the Effective Date, the Department and the Supplier will discuss and mutually agree on the following:
- 4.2.1 the size and constitution of the ERB;
 - 4.2.2 the authority of the ERB;
 - 4.2.3 the process to be followed by the ERB to arrive at decisions;
 - 4.2.4 the authority of the ERB Chair; and
 - 4.2.5 the binding nature or otherwise of the decisions taken by the ERB.
- 4.3 The Department membership of the ERB is detailed in Attachment 7-1. The Supplier membership of the ERB is detailed in Attachment 7-2.
- 4.4 The Parties have the following responsibilities in regard to the ERB:
- For the Department:
- 4.4.1 schedule the meeting; and
 - 4.4.2 chair the meeting.
- For Supplier:
- 4.4.3 draft the agenda;
 - 4.4.4 record the Minutes from each meeting; and
 - 4.4.5 circulate the Minutes.
- 4.5 The responsibilities of the ERB will include:
- 4.5.1 monitoring at a strategic level the performance of the Department and the Supplier in achieving the delivery of the Services;
 - 4.5.2 resolving any relationship issues arising out of the Agreement that have been escalated to the ERB;
 - 4.5.3 setting the strategic direction for the Agreement;
 - 4.5.4 providing a forum for the resolution of disputes that cannot be resolved at the Contract Management Board (CMB) level;
 - 4.5.5 providing advice and guidance to the CMB for performance improvement activity; and
 - 4.5.6 within the authority of the ERB, endorsing actions beyond the authority of the CMB.
- 4.6 In addition to the ERB members identified in Attachment 7-1 and Attachment 7-2, the Parties may invite additional appropriate representatives to attend the ERB on an as required basis.

- 4.7 Where a Party is seeking additional representatives to attend the ERB the Party must obtain the approval of the other Party for those representatives to attend prior to the commencement of the ERB.
- 4.8 The Department will be responsible for keeping Attachment 7-1 up to date during the Term. The Supplier will be responsible for keeping Attachment 7-2 up to date during the Term.
- 4.9 Wherever reasonably practicable, each Party will give the other one (1) month's written notice in the event it wishes to change its permanent representatives on the ERB.

5. **CONTRACT MANAGEMENT BOARD**

- 5.1 A Contract Management Board (CMB) must be in place before the Supplier starts to offer any Services. The purpose of the CMB is to:
- 5.1.1 ensure the alignment of the delivery of the Services in accordance with the Agreement and to provide a forum for the resolution of day-to-day operational, contractual, relationship and Service problems and disputes arising out of the Agreement;
 - 5.1.2 provide a higher level management, escalation and authoritative forum from the Delivery Management Meeting, and assist the Department and the Supplier in decisions that directly affect the Agreement;
 - 5.1.3 provide global coordination of the Agreement, as required; and
 - 5.1.4 establish and monitor a program of continuous improvement.
- 5.2 The responsibilities of the CMB will include, but not be limited to:
- 5.2.1 providing a higher level of supervision and management than the routine activities of the Agreement and the day-to-day management of the Services;
 - 5.2.2 ensuring business alignment, analysis of business plans and oversight of business development;
 - 5.2.3 reviewing cost reduction proposals;
 - 5.2.4 reviewing and authorising operational, financial and resource plans and authorising business and technical proposals;
 - 5.2.5 reviewing performance of the Agreement;
 - 5.2.6 carrying out risk management and providing an analysis for review by the ERB;
 - 5.2.7 providing a forum for the escalation of disputes than cannot be resolved at the delivery management level;
 - 5.2.8 reviewing the management summary reports and recommendations;
 - 5.2.9 reviewing, on an annual basis, recommendations and providing authorisation as required for:

- (a) Service Level and Service Credit performance, including Service Credit Allocation history, and calculation of Service Credits (if any) for the previous twelve (12) months (or such lesser period if the Grace Periods that apply to the applicable Service Levels as set out in Schedule 6 (**Service Levels and Service Credits**) expired less than 12 months before the relevant review time);
 - (b) proposal for Changes to Service Levels and Service Credits (if any) including continuous improvement;
 - (c) financial budget/actuals;
 - (d) Service Charges ^{s47C} [REDACTED]
 - (e) satisfaction surveys;
 - (f) audit results;
 - (g) compliance requirements; and
 - (h) ongoing assessment of Value For Money results;
- 5.2.10 reviewing and authorising New Services requests and Changes to the Agreement;
- 5.2.11 reviewing the Business Continuity Plan and identifying potential business continuity issues and risks, and referring them to the ERB where appropriate;
- 5.2.12 reviewing the implementation of the Agreement and the achievement of the Agreement objectives (as set out in Recital D of the Agreement), key Milestones and deliverables;
- 5.2.13 managing Changes in accordance with the Change Control Procedure set out in Schedule 8 (**Change Control**); and
- 5.2.14 developing the governance structure and approving the Supplier's Contract Delivery Manual described in Section 8.2 below.
- 5.3 The Department membership of the CMB is detailed in Attachment 7-1. The Supplier membership of the CMB is detailed in Attachment 7-2.
- 5.4 The Parties have the following responsibilities in regard to the CMB:
- For the Department:
- 5.4.1 schedule the meeting;
 - 5.4.2 chair the meeting; and
 - 5.4.3 raise issues, as required, to the ERB.
- For the Supplier:
- 5.4.4 draft the agenda;

- 5.4.5 record the Minutes from each meeting; and
- 5.4.6 circulate the Minutes.
- 5.5 Meetings will take place three monthly from the Effective Date or otherwise as agreed by the Parties.
- 6. **DELIVERY MANAGEMENT MEETING**
- 6.1 The purpose of the Delivery Management Meeting (DMM) is to provide a forum for monitoring the ongoing performance of the Supplier against the Services.
- 6.2 The DMM will meet on a fortnightly basis, or as otherwise agreed by the Parties.
- 6.3 The DMM will:
 - 6.3.1 implement and manage the Agreement at the local level, including:
 - (a) monitoring and implementing Transition Plans and the achievement of key Milestones;
 - (b) ensure all plans, including operations, financial and resource plans are developed and implemented in accordance with the Agreement;;
 - 6.3.2 review the performance against the metrics and monitor trends to ensure potential issues are captured and addressed early;
 - 6.3.3 monitor the quality and timely delivery of reports as required by the Agreement;
 - 6.3.4 agree the Service Levels achieved, as relevant for the reporting period, and monitoring the performance of the Service Levels and Service Credits;
 - 6.3.5 reviewing and scheduling of CCNs within each Party's respective delegated authority limits;
 - 6.3.6 reviewing and recommending business development proposals for New Services to the CMB;
 - 6.3.7 reviewing performance improvement and making recommendations directly to the CMB;
 - 6.3.8 monitoring and reviewing the ongoing status of Third Party Contracts;
 - 6.3.9 monitoring adherence to quality management processes and procedures;
 - 6.3.10 supervising the co-operation and other matters between the Parties;
 - 6.3.11 submitting issues concerning the relationship between the Parties to the CMB;
 - 6.3.12 managing operational problems, issues and disputes in accordance with escalation procedures;
 - 6.3.13 resolve any issues as close to the actual provision of the Services as possible;

6.3.14 handling of disputes within the delegation limits / authority of the DMM in accordance with the Dispute Resolution Procedure; and

6.3.15 referring matters outside its authority to the CMB.

6.4 The Supplier must provide the Department with a list of contact details, including mobile phone numbers, of its Delivery Managers at the Effective Date. This list will be kept up to date at all times during the Term. The Supplier's Delivery Managers will need to be contactable twenty four (24) hours a day, with deputies provided as needed.

7. OPERATIONAL MEETINGS

7.1 Prior to the Effective Date the Supplier must identify a Site Supervisor. The Site Supervisor and the Department's nominated Contract Officer will act as the primary contacts and interface between the Parties in respect of the day to day delivery of the Services and operation of the relationship between the Parties.

7.2 The Department Contract Officer and Supplier Site Supervisor will, at a minimum and unless otherwise agreed, meet weekly to discuss day-to-day operations and such other matters as may be relevant to the provision of the Supplier's Solution.

7.3 The responsibilities and authorities of the Site Supervisor will be set out in the Supplier's Contract Delivery Manual and will include, but not be limited to, matters such as:

7.3.1 managing the day-to-day delivery of the Services;

7.3.2 implementing the Agreement on the ground;

7.3.3 monitoring and implementing the Transition Plan;

7.3.4 managing operational problems, issues and disputes in accordance with escalation procedures;

7.3.5 ensuring efficient flow of documentation and production of Reports as required by the Agreement;

7.3.6 monitoring local adherence to quality management processes and procedures; and

7.3.7 generally dealing with any matter or issue arising out of or in connection with the Agreement within their respective delegated authorities.

7.4 At the Effective Date, the Supplier must provide the Department with a list of contact details, including mobile phone numbers, of its Site Supervisor(s). This list will be kept up to date at all times during the Term. These representatives will need to be contactable twenty four (24) hours a day, with deputies provided as needed.

8. ON-GOING GOVERNANCE

8.1 As soon as practicable but in any event no later than two (2) months after the Effective Date, the Parties will finalise the governance structure, which will be based upon the principles set out in this Schedule 7 (**Governance**). It is intended that some of the authorities and responsibilities of the CMB will be delegated to the Parties' respective Delivery Management representatives.

- 8.2 The Parties will work together to further develop the governance structure which will be detailed in the Supplier's Contract Delivery Manual to be issued within three (3) months after the Effective Date. The Supplier's Contract Delivery Manual will describe the roles of each Party's respective contract management groups and the interfaces between those groups. The Supplier's Contract Delivery Manual will set out the delegated authorities of each work group. The Supplier's Contract Delivery Manual will be reviewed and approved by the CMB.
- 8.3 As an interim measure until such time as the Supplier's Contract Delivery Manual is approved by the Department, the Supplier will, at a minimum, provide the Department on or before the Effective Date with:
- 8.3.1 contact information for the Supplier's central point of contact for all Agreement-related matters;
 - 8.3.2 the process for consolidation, maintenance and storage of contractual records and documentation;
 - 8.3.3 procedures for the administration of and compliance with the Agreement;
 - 8.3.4 procedures for monitoring Supplier compliance with the processing of Client Enquiries, customer satisfaction, monitoring Service Levels and Service Credits and dealing with complaints from Clients;
 - 8.3.5 procedures for on-going issue and Change management; and
 - 8.3.6 process for identifying and addressing areas of improvement of the Agreement.
- 8.4 The Parties will periodically (and at least once per annum within the month after the Effective Date) review and update the Supplier's Contract Delivery Manual. All such reviews will be conducted and approved by the CMB.
- 8.5 The Department and the Supplier will jointly develop and implement agreed business assurance processes, which will be incorporated within the Supplier's Contract Delivery Manual.

9. DISPUTE RESOLUTION PROCEDURE

- 9.1 General
- 9.1.1 The Supplier undertakes to work with the Department to resolve any disputes as quickly as possible to minimise cost and the impact on the provision of the Services.
- 9.2 Informal Dispute Resolution
- 9.2.1 In accordance with this Schedule 7 (**Governance**), the Parties agree to attempt to resolve all disputes at the lowest possible managerial level without escalation. However, from time to time, issues may arise that cannot be resolved at that level.
 - 9.2.2 It is the intent of the Department and Supplier to resolve issues in a constructive way that reflects the concerns and commercial interests of each Party. It is also the intention to have the issues resolved by the

appropriate levels of authority without the need for escalation. With this in mind, the following steps are to be followed:

- (a) Notification of escalation - either Party may decide that escalation is appropriate when resolution of an issue appears unachievable at the current managerial level. In this case, the Party desiring to escalate the issue notifies the other Party and, if requested by the other, they shall meet again to attempt to resolve the issue.
- (b) Documentation - both Parties will try to develop jointly a short briefing document called Statement of Issue for Escalation that describes the issue, relevant impact and positions of both Parties.
- (c) Request for Assistance - a meeting will be scheduled with appropriate individuals as described below. The Statement of Issue for Escalation is sent in advance to the participants. It is the intention of the Department and the Supplier that issues are escalated for review and resolution to the next level of management in an ascending order as follows:
 - (i) Contract Officer/Site Supervisor;
 - (ii) Contract Manager/Delivery Manager;
 - (iii) the Contract Management Board; and
 - (iv) the Executive Review Board.
- (d) Issue Review - following review and resolution, the decision shall be documented and returned to both Parties.

9.3 Alternative Dispute Resolution

9.3.1 If the issue is not resolved by the process set out in Section 9.2 above (or solely in the case of the Department, where the Department reasonably believes the issue needs to be urgently escalated for resolution), the Department or the Supplier may invoke the following Alternative Dispute Resolution process which will require both Parties to adhere to the following procedure:

- (a) either Party may propose to the other in writing that structured negotiations are entered into with the assistance of a neutral adviser or mediator ("Neutral Adviser");
- (b) the Neutral Adviser will either be agreed upon by the Parties or, in the absence of agreement, appointed by the President of the Law Society of the Australian Capital Territory;
- (c) within fourteen (14) calendar days of the appointment of the Neutral Adviser, the Parties will meet with the Neutral Adviser in order to agree a programme for the exchange of any relevant information and the structure to be adopted for the negotiations;
- (d) unless concluded with a written legally binding agreement, all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the Parties in any other proceedings;

(e) the Parties may request the Neutral Adviser to issue written recommendations, and if the Neutral Adviser is willing to make such recommendations and the Parties accept such recommendations or otherwise reach agreement on the resolution of the dispute, such agreement will be reduced to writing and, once it is signed by the authorised representatives of each Party, will be binding on the Parties; and

(f) in the event that the Alternative Dispute Resolution process is initiated in accordance with this Section 9.3 and the Parties fail to reach agreement in the structured negotiations within sixty (60) calendar days of the appointment of the Neutral Adviser (or such other period as may be agreed by the Parties having due regard to the circumstances), either Party may withdraw from the structured negotiations. Any continuing dispute or difference between the Parties may then be referred to the Australian courts.

9.4 Costs

9.4.1 Unless agreed otherwise by the Parties, each Party will bear its own costs and expenses associated with participating in the process set out in Section 9.2 and in the Alternative Dispute Resolution process. Any third party costs, including fees payable to the Neutral Adviser and in relation to the hiring of a venue, will be shared equally by the Parties.

9.5 Special Procedure following a Notice of Termination

9.5.1 If one Party has delivered a notice of Termination to the other Party, the Department representative with overall responsibility for the Agreement and the Supplier's Delivery Manager with overall account responsibility for the Agreement (or a nominee appointed by such persons or the relevant individual holding a similar position) will meet within fourteen (14) calendar days after the date of such delivery of the notice for the purpose of defining the scope of any dispute(s) that may be referred to formal dispute resolution. The officers referred to above may include as attendees at such meeting a reasonable number of business managers and/or legal or other advisors as such officers require to assist in the purpose of such meeting.

9.6 Formal Dispute Resolution

9.6.1 Nothing in this Schedule 7 (**Governance**) will prevent either Party from at any time commencing court proceedings relating to any dispute arising from the Agreement after having notified the other Party in writing of its intention to withdraw from the procedures set out in this Section 9.

ATTACHMENT 7-1

Department Representatives

The following personnel are nominated as the Department Representatives:

Business Executive	Name
	Contact Details
Business Owner	Name
	Contact Details
Contract Manager	Name
	Contact Details
Contract Officer	Name
	Contact Details

ATTACHMENT 7-2

Supplier Representatives

The following personnel are nominated as the Supplier Representatives:

Account Executive/Principal	Name
	Contact Details
Client Lead	Name
	Contact Details
Delivery Manager	Name
	Contact Details
Site Supervisor	Name
	Contact Details

**SCHEDULE 8
CHANGE CONTROL**

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CHANGE CONTROL**1. INTRODUCTION**

- 1.1 The parties agree that, throughout the Term, the process for implementing all Changes will be through the Change Control Procedure set out in this Schedule 8 (**Change Control**), unless otherwise agreed by the parties in writing to the contrary.
- 1.2 This Schedule 8 (**Change Control**) sets out the procedure to be followed in respect of any requests or requirements for any Agreement Change.
- 1.3 This Schedule 8 (**Change Control**) also sets out the scoping process for assessing the impact of proposed Agreement Changes and any other matter relating to the processing and approval or rejection of Agreement Changes.
- 1.4 Unless otherwise expressed in the Agreement, this Change Control Procedure does not apply to changes to Supplier systems, processes or infrastructure which are outside the scope of the Agreement.
- 1.5 In this Schedule 8 (**Change Control**), unless the context otherwise requires, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. GENERAL PRINCIPLES

- 2.1 Either party may initiate a Change Request (the “**Originating Party**”), using a form substantially similar to the Change Control Note (“**CCN**”) at Annex 8-1, in accordance with this Section 2.
- 2.2 A Change Request may be withdrawn by the Originating Party at any time before it receives final approval in accordance with the Change Control Procedure.
- 2.3 No Change Request will be legally effective until the CCN is completed and signed by the Parties as a deed of variation in accordance with this Change Control Procedure.
- 2.4 All CCNs will be authorised by an authorised representative of the Originating Party in accordance with the authority levels agreed pursuant to Schedule 7 (**Governance**), who will act as the CCN sponsor throughout the Change Control Procedure.
- 2.5 For all Change Requests, the Supplier is responsible for:
- 2.5.1 assigning a unique number to the CCN; and
- 2.5.2 identifying any related CCNs and, if applicable, recording the relevant related CCN numbers on the CCN currently being processed.
- 2.6 The processing of certain Change Requests and the quality and timeliness of the Supplier's implementation of a Change is the subject of Service Levels and Service Credits as set out in Schedule 6 (**Service Levels and Service Credits**).
- 3. FEE AMENDMENT AND NON-CHARGEABLE CHANGES**
- 3.1 Agreement Changes that go through the Change Control Procedure do not automatically result in an amendment to Service Charges ^{s47C} (Fee

Amendment). All Agreement Changes will be subject to the Fee Review Procedure set out in Annex 8-3 unless they are Non-Chargeable Changes as set out in this Section 3.

3.2 Non-Chargeable Changes

3.2.1 Agreement Changes that the Supplier is required to carry out at its own cost with no increase in the Service Charges ^{s47C} (‘‘Non-Chargeable Changes’’) include:

- (a) Agreement Changes required by any Change in Law which is not a Discriminatory Change in Law;
- (b) Solution Changes;
- (c) any Changes to the Services expressed as not giving rise to any increase in Service Charges ^{s47C};
- (d) Changes to the Services (including changes to the Service Levels and Service Credits) made by the Supplier pursuant to its obligations in relation to improved performance and continuous improvement (including those at **Clause 9.3** of the **Terms and Conditions** and Schedule 6 (**Service Levels and Service Credits**);
- (e) Agreement Changes that are required to remedy an adverse Audit finding resulting from the exercise by the Department of Audit Rights pursuant to Schedule 12 (**Audit Access**);
- (f) Agreement Changes to Supplier Subcontractors made by the Supplier or by the Department requesting the removal of a Supplier Subcontractor on grounds permitted under the Agreement;
- (g) Agreement Changes that are required as part of any Service Levels and Service Credits Default resolution procedure, including those set out in Schedule 6 (**Service Levels and Service Credits**); and
- (h) any Agreement Change in respect of which the costs and expenses associated with the Supplier complying with such Agreement Change are already included in the Service Charges ^{s47C} including where the Supplier is appropriately compensated through increased Service Charges ^{s47C} resulting from increased transaction volumes.

3.3 Fee Amendment Changes

3.3.1 Agreement Changes that may result in an increase in the Service Charges ^{s47C} (‘‘Fee Amendment Changes’’) are:

- (a) New Services, in which case the procedure in Section 6 applies;
- (b) Discriminatory Changes in Law; and
- (c) any other Change which is not a Non-Chargeable Change and which causes a Cost Compensation Event. The Fee Review Procedure set out in Annex 8-3 applies to Fee Amendment Changes which cause a Cost Compensation Event.

- 3.4 In addition, both Fee Amendment Changes and Non-Chargeable Changes will be further assessed via the Fee Review Procedure to establish whether the proposed Change has the potential for a reduction in the Service Charges ^{s47C}

4. PROCESSING OF CCN

4.1 Initiation of Changes

4.1.1 Changes initiated by the Department

- (a) The Department will make a Change Request by submitting to the Supplier a CCN with Part A completed.
- (b) **Non-Chargeable Changes** - as soon as is practicable, but in any event within ten (10) Business Days after receipt by the Supplier of a completed Part A of a CCN from the Department (or such longer period as the parties may otherwise agree), the Supplier must undertake a full assessment of the CCN and complete Part B of the CCN in accordance with Section 4.2 and the provisions of Section 4.3 then apply.
- (c) **Fee Amendment Changes** - prior to processing of each CCN in accordance with Section 4.2, the Supplier must undertake an initial assessment and as soon as practicable (but in any event within ten (10) Business Days after receipt by the Supplier of Part A of a CCN from the Department) provide to the Department an indicative but non-binding proposal (in writing) setting out any one-off charges or changes to the Service Charges ^{s47C} which the Supplier proposes in connection with such Change (an “**Indicative Fee Amendment Proposal**”) together with all appropriate supporting documentation. The Department may:
 - (i) accept or reject the Indicative Fee Amendment Proposal; or
 - (ii) request further information from the Supplier; or
 - (iii) require the Supplier to submit a revised Indicative Fee Amendment Proposal; and
 - (iv) whether or not the Department accepts the Indicative Fee Amendment Proposal or any revised Indicative Fee Amendment Proposal, require the Supplier to complete the processing of the CCN in accordance with Section 4.2.

- 4.1.2 Pursuant to Section 4.1.1(c), Part B of the CCN must be completed by the Supplier as soon as reasonably practicable and, in any event, in accordance with the timeframes agreed with the Department.

4.1.3 Changes initiated by the Supplier

- (a) The Supplier may make a Change Request to the Department by submitting a CCN to the Department.
- (b) Non-Chargeable Changes and Fee Amendment Changes for which the Supplier does not deem it necessary to provide an Indicative Charges Proposal because there is no impact on the Service

Charges s47C – The Supplier must provide the Department with a CCN with Parts A and B completed (Part B having been processed in accordance with Section 4.2 below). The Department will decide whether to approve the Change Request in accordance with the procedure set out in Section 4.3.

- (c) **All other Fee Amendment Changes** - The Supplier must provide the Department with a CCN with Part A completed together with an Indicative Charges Proposal and all appropriate supporting documentation. The Department may:
- (i) accept or reject the Indicative Charges Proposal;
 - (ii) request further information from the Supplier; or
 - (iii) require the Supplier to submit a revised Indicative Charges Proposal; and
 - (iv) whether or not the Department accepts the Indicative Charges Proposal, or any revised Indicative Charges Proposal, require the Supplier to complete the processing of the CCN in accordance with Section 4.2.

4.1.4 Pursuant to Section 4.1.3(c), Part B of the CCN must be completed by the Supplier as soon as reasonably practicable and, in any event, in accordance with the timeframes agreed with the Department.

4.2 Processing CCN – completion of Part B

4.2.1 The Supplier must undertake a full assessment of the CCN and complete Part B of the CCN in accordance with Section 4.2.

4.2.2 The parties will agree a timeframe for the completion by the Supplier of the processing and completion of Part B of the CCN which, in the absence of agreement by the parties to the contrary, will be a maximum of ten (10) Business Days after the date of receipt of a completed Part A of a CCN from the Department.

4.2.3 In completing Part B of the CCN, the Supplier must provide, at a minimum:

- (a) a description of the Agreement Change and whether the Supplier considers that the Agreement Change is a New Service;
- (b) whether the Supplier considers that the Agreement Change is a Cost Compensation Event so that the Fee Review Procedure is applicable and, if so, give its reasons;
- (c) if the Fee Review Procedure is applicable, the one-off Service Charge s47C (or one-off refund in the case of a decrease to Service Charges s47C and/or the on-going adjustment to the Service Charge s47C resulting from the implementation of such Agreement Change;
- (d) a list of deliverables required for implementing the Agreement Change (cross-referenced to any expected benefits specified in Part

A of the CCN that the Supplier anticipates will be provided by such implementation);

- (e) a timetable for implementation;
 - (f) an impact analysis (as more fully described in Annex 8-2);
 - (g) any relevant Acceptance Criteria;
 - (h) an assessment of the added value of a proposed Change to the Department where the Supplier is the Originating Party for the proposed Agreement Change; and
 - (i) full details of any proposed amendments to the Agreement, as required.
- 4.2.4 The Department will provide the cooperation and information reasonably and necessarily required by the Supplier in order to complete production of the CCN within the agreed time periods.
- 4.2.5 Prior to submission of the completed CCN to the Department, the Supplier will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the Supplier will consider the materiality of the proposed Agreement Change in the context both of the Services affected by the proposed Agreement Change and the effect on the Agreement as a whole that may arise from implementation of the proposed Agreement Change. For the avoidance of doubt, such review is not intended to replace an impact analysis.

4.3 Approval of CCN

- 4.3.1 On receipt of a completed Part B of a CCN from the Supplier, and following the appropriate process of approval by the Department, the Department may:
- (a) approve the Change Request by an authorised representative completing Part C of the CCN and this will suffice as an approval to progress the implementation of the Agreement Change;
 - (b) reject the Change Request, giving its written reasons for the rejection; or
 - (c) require the Supplier to re-submit its CCN, provided that the Department will provide reasonable detail to the Supplier of the parts of the CCN that do not meet with its approval, or those parts where the Department needs more information to evaluate the Change Request.
- 4.3.2 No Change to any part of, or otherwise related to, the Agreement can be implemented without the prior written consent of the Department. If the Supplier proceeds with an Agreement Change without the Department's prior written authorisation, such Agreement Change will (subject to Section 4.3.3) be entirely at the Supplier's cost and risk and in no way relieves the Supplier from performing its obligations under the Agreement.

- 4.3.3 The Supplier may proceed with a Change without the Department's prior written consent in emergencies where an immediate risk of loss or damage to either of the parties exists, provided that, in such emergencies, the Supplier must notify the Department immediately after implementation of the Change. The notification must be in the form of a priority CCN with Parts A and B completed after the Change has been implemented, and Part C to be approved by the Department. Where any such Change is not approved by the Department, the Supplier must have regression procedures in place to mitigate any risk and, if requested by the Department, must apply such regression procedures in order to reverse the impact of the Change, should the Department not approve such Change.
- 4.3.4 Disputes about the impact of a proposed Change will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.5 For any proposed Agreement Changes that require implementation in accordance with acceptance criteria, the proposed Agreement Changes may only be implemented where the parties have agreed the Acceptance Criteria.

5. CHANGES IN LAW

- 5.1 In accordance with **Clause 29** (Regulatory and Legal Compliance) of the **Terms and Conditions**, it is the Supplier's responsibility to adapt to and comply with Changes in Law provided that Discriminatory Changes in Law result in a Fee Amendment Change where the Discriminatory Change in Law is also a Cost Compensation Event.
- 5.2 Each party will notify the other parties of any relevant Changes in Law of which it becomes aware as soon as reasonably practicable after becoming so aware.
- 5.3 In addition to the information required to be given to the Department in connection with a Change in Law, the Supplier must provide the following information to the Department:
- 5.3.1 copies of the relevant documents that describe the proposed Change in Law, including details of the rationale supporting the Supplier's interpretation of any particular Changes in Law (if applicable); and
- 5.3.2 the date on which the Change in Law comes into effect and, if different, the date on which any Changes resulting from such Change in Law are required to be implemented.

6. NEW SERVICES

- 6.1 The Supplier and the Department will agree on:
- 6.1.1 the nature and scope of any New Service, including the Performance Standards for performance (as may be applicable);
- 6.1.2 the related Service Charges §47C and
- 6.1.3 any other pricing (if any), and appropriate amendments to the parts of the Agreement affected (if any).

6.2 All pricing negotiations held between the parties for New Services will be conducted in good faith and the Supplier must substantiate to the Department's satisfaction any Service Charge ^{s47C} increase.

6.3 Notwithstanding Section 6, the Department may, in its absolute discretion, elect to solicit bids from third parties for the performance of New Services and may contract with a third party for the performance of such New Services or elect to provide in-house resources to handle the New Services.

6.4 If the provision of any New Services is awarded to the Supplier, the parties, subject to meeting any relevant Acceptance Criteria, will amend the Services Requirements and any other relevant Schedules and the Terms and Conditions to reflect the New Service, and the New Service will then become part of the Services.

7. COSTS

7.1 Unless otherwise agreed by the parties, each party will be responsible for their own costs incurred in the preparation, completion, evaluation, assessment and agreement of all CCNs and in the completion of their obligations described in this Change Control Procedure.

8. REPORTS

8.1 The Supplier must administer and maintain comprehensive records of all documentation relating to Changes, including for Change Requests and CCNs regardless of which party was the Originating Party.

8.2 In particular, the Supplier must record and track the progress of all CCNs and report the status of CCNs on a Monthly basis or as otherwise agreed between the parties.

8.3 On a Monthly basis, the Supplier will monitor and report the status of the implementation of all Changes against the schedules for such implementations agreed between the parties. Such reporting must take place in accordance with Schedule 11 (**Reporting**).

9. DISPUTES

9.1 Any dispute as to the adjustment of the Service Charges ^{s47C} or in relation to any Change will be resolved pursuant to the Dispute Resolution Procedure.

10. REVIEW OF CHANGE CONTROL PROCEDURE

10.1 As part of the first Annual Review (or earlier if agreed), the parties will review the operation, effectiveness and efficiency of the Change Control Procedure and the Solution Change Procedure and will consider making appropriate changes to improve such procedures. In particular, the parties will consider whether an expedited or "fast-track" Change Control Procedure is required for certain categories of Changes.

ANNEX 8-1

CHANGE CONTROL DEED OF VARIATION TEMPLATE

Initial Notes on completion:

The CCN is the document which formally enacts a material change to the Agreement. Although the CCN requires information relating to business justification for the Change, this should be kept to a minimum and any associated documentation i.e. Mini Business Case (MBC), Project Plan, Cost Model, etc. should be appended where possible.

The detail provided in the CCN must be sufficient to enable a proper update of the existing version of the Agreement by the Department's CM Team. CCNs sent to the Department with insufficient information cannot be incorporated into the Agreement and will be returned to the originator for further detail.

CCN TITLE:	
REFERENCE NUMBER:	
Date change required:	
Version:	
Date of Receipt:	

Name of Originator:	
Contact Numbers:	
Contact Email:	
Name of Substitute:	
Contact Numbers:	
Contact Email:	

PART A: STATEMENT OF CHANGE REQUIREMENTS

This Section contains the necessary supporting documentation, description and rationale for the change. Description should be sufficient to assure the Change Control Manager that sufficient consultation and joint development has occurred between the Department and the Supplier.

NB. Instructions column may be deleted from once CCN is completed.

Ref.	Instruction	Content
A1	<p><i>Brief description of the change requirements including appropriate background, change objectives, timing, key benefits to be realised, key risks and critical success factors.</i></p> <p><i>Details of any consultation / approvals to date between the Supplier and the Department Contract Manager in relation to the proposed change.</i></p>	Background:
A2	<p><i>This section should provide the following:</i></p> <p><i>1] A concise business justification for the change. If the CCN is supported by a Business Case then this should be referred to and attached as an annex to the CCN.</i></p> <p><i>2] A description of the change and the specification of requirements.</i></p>	<p>Description and reasons for the recommended change including appropriate details / specifications:</p> <ol style="list-style-type: none"> Business Justification Change Description
A3	<p><i>Any savings created, value add elements or other benefits which will be facilitated as a result of the CCN. A description of any</i></p>	Cost savings or added value derived from the change:

	<i>potential service improvements or efficiencies which are enabled should also be provided.</i>	
A4	<p><i>Any indirect or consequential costs attributable to the Department which will arise as a result of CCN activity.</i></p> <p><i>NB. Applicable only to CCNs originating with the Supplier.</i></p>	Indirect or consequential costs arising from the Supplier originating CCN:

PART B: SUPPLIER PROPOSAL

This Section contains detail relevant to the Supplier's proposal to meet the change requirements described in Part A, and any impacts arising. It is anticipated that arguments for change are sufficiently defined in Part A, such that the solution can be described in terms of:

- *Financial impact and cost profile*
- *Other impacts*
- *Deliverables*
- *Option analysis*
- *Implementation timetable*
- *Risks and mitigation*
- *Readiness criteria and governance procedures which embed change*
- *Specific amendments to the Agreement*

Completed Part B must be provided by the Supplier within five (5) Business Days of receipt of otherwise agreed with the Department

Ref.	Instruction	Content
B1	<p><i>Detail on whether the change is likely to change Service Charges ^{s47C} or can be delivered without any cost to the ^{s47C} Department (Non-Chargeable).</i></p> <p><i>In the event that a change is likely to result in a Fee Amendment, a full cost breakdown must be provided to facilitate any changes necessary to the master Cost Models. This should include a clear breakdown of year on year cost and saving projections. Itemised in the change template.</i></p>	Financial Impact:

B2	<i>Detail on any technical, operational, commercial, financial, customer service, etc. Impacts which might occur as a result of the change requirement.</i>	Impacts:
B3	<i>Outline of any outputs arising from the change e.g. new products or services to be delivered by the Supplier.</i>	Deliverables:
B4	<i>An outline of <u>all possible options</u> which have been considered by the Supplier as a means of enacting the Department change requirements should be provided.</i> <i>This should include the rationale for the selection of the preferred option, and a cost benefit analysis of each option considered.</i>	Option Analysis of Solutions:
B5	<i>An outline of the proposed timetable for implementing the change requirement. The timetable should include time for approvals and any dependencies or risks impacting on implementation of the changes and the CCN.</i> <i>Where necessary, this should be supported by a Project Plan.</i>	Timetable:
B6	<i>Detail of risks identified by the Supplier in relation to the proposed change.</i> <i>Detail should also be provided on how the identified risks will be treated via appropriate mitigation strategies.</i>	Risks and mitigation:
B7	<i>This section should detail any governance processes or procedures which the Department need to undertake in order to enable the embedding of change (for example, signing of weigh-bills or receipts to certify delivery and trigger invoice events).</i>	Governance criteria and enablers:
B8	<i><u>All</u> amendments to the Agreement which are necessitated by the required change must be captured in the CCN.</i> <i>It is insufficient and inadequate to simply state which Schedule is impacted by the change. The location reference in the current version of the Agreement must be sufficiently</i>	Agreement Amendments: The parties propose / have agreed to insert the following amendments to Agreement version [xxxx] at [<i>explicit ref. to T & Cs or Schedules to be revised, sub-sections and page numbers</i>], <u>and</u> a marked up copy of that / those Schedule(s), or a complete excerpt of that / those Schedule(s), where an amendment is proposed/agreed is

	<p><i>detailed down to page number level (eg. Clauses a, b, d, f, of Schedule Z, at pages x,y,z....).</i></p> <p><i>The status of <u>EACH</u> amendment must be clearly stated – e.g. “agreed” or “proposed by the Supplier”. Where amendments are proposed or agreed, a marked up version of each Schedule must be annexed to the CCN where changes are comprehensive and have a wide impact on existing Schedules, or will be embedded in the CCN amendments box.</i></p> <p><i>It must be made clear whether or not something is being removed, re-worded or replaced. If a part of the contract is being replaced, it must be made clear which part is being replaced, and what is replacing it.</i></p> <p><i>Where the document is not a word document – e.g. Excel or other, then the revision detail must be highlighted to enable clear identification by the Department.</i></p>	<p>hereby attached or embedded.</p>
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PART C: THE DEPARTMENT'S COMMERCIAL ANALYSIS

In this Section the Contract Manager will assess the Supplier solution for commercial impact highlighting any residual risks, further actions to complete and the resulting impact on the Agreement.

Name:	Area of analysis:	Date Due:
Analysis:		
Recommendation:		

PART D: AUTHORITY TO PROCEED

Authority to proceed can only be given when the responsible body has approved the CCN. This is dependent on the cost of the change and is likely to be the Business Owner. You must allow sufficient time for the approval process. Consult the Contract Manager for advice.

Name of authorising officer for the Department:	Role:	Date:
Signature:		
Name of authorising officer for the Supplier:	Role:	Date:
Signature:		

ANNEX 8-2**IMPACT ANALYSIS****1. IMPACT ANALYSIS**

- 1.1** The purpose of the impact analysis is to provide a context for a discussion around the approval and implementation of the proposed Agreement Change.
- 1.2** The impact analysis will consider the material effect of any proposed Agreement Change on any existing Services, other than the aspects of the Services expressly covered by the proposed Agreement Change, on any other relevant services provided by the department or a third party and on any aspect of the Exit Plan and of the Business Continuity Plan. The impact analysis on the Services will include examining all potential dependencies and knock-on effects which may result from the proposed Agreement Change and affect any part of the Services, so that these may be taken into account as part of the overall Change Control Procedure for approval or rejection of the CCN. If the proposed Agreement Change has no such impact, a "no impact" statement will be made.
- 1.3** The impact analysis will consider the impact of the proposed Change with the following parameters taken into account:
- 1.3.1 scope of the Agreement;
 - 1.3.2 whether the proposed Change is a New Service;
 - 1.3.3 Performance Standards;
 - 1.3.4 s47C
 - 1.3.5 delivery dates;
 - 1.3.6 Acceptance Criteria;
 - 1.3.7 the Business Continuity Plan;
 - 1.3.8 the development and evolution of the Infrastructure System;
 - 1.3.9 the Risk Management Plan;
 - 1.3.10 the Exit Plan;
 - 1.3.11 the Department's policies;
 - 1.3.12 infrastructure requirements including new Assets and/or Software;
 - 1.3.13 Supplier Subcontracts;
 - 1.3.14 a risk assessment;
 - 1.3.15 resources, including Supplier Personnel and the Department's resources;
 - 1.3.16 benefits to the Department; and

- 1.3.17 any other matter reasonably requested by the Department at the time of the impact analysis or reasonably considered by the Supplier to be relevant.
- 1.4 The parameters in Section 1.3 of this **Annex 8-2** must be considered in such a way that the impact analysis will, at a minimum, clearly show the impact on the Service Charges ^{s47C} where the Fee Amendment Review Procedure applies), the Performance Standards, the Services and any other relevant matter covered by the Agreement. The resulting impact analysis will confirm the authority level required to authorise the Change.
- 1.5 The parties acknowledge that the above is not an exhaustive list. There may be more factors to consider in the context of a particular Change and some of the factors described above may not be relevant to every Change.

ANNEX 8-3**FEE REVIEW PROCEDURE****1. INTRODUCTION**

- 1.1** Except for New Services, the Fee Review Procedure is the only process by which the Service Charges ^{s47C} may be modified.
- 1.2** Where the Fee Review Procedure applies, this Annex 8-3 will apply, provided always that there will be no increase in the Service Charges ^{s47C} unless the Agreement Change causes a Cost Compensation Event, as described in Section 2.2 of this Annex 8-3.
- 1.3** All information provided by the Supplier under the Fee Review Procedure and any negotiations held between the parties as to the financial impact of a Fee Amendment Change will be on an open book basis.
- 1.4** Service Charges ^{s47C} may be decreased or increased pursuant to the Fee Review Procedure. Such decrease or increase must reflect the material and demonstrable change to the cost to the Supplier of performing the Services or achieving the Performance Standards, where the Supplier has used Commercially Reasonable Efforts to mitigate the effect of the Agreement Change and to minimise its costs of implementing the Agreement Change.

2. INCREASE IN SERVICE CHARGES ^{s47C}

- 2.1** Where the Supplier is requesting an increase to the Service Charges ^{s47C} as a result of the Agreement Change, the Supplier must:
- 2.1.1** provide an analysis of the reasons that the Supplier believes its costs will be materially impacted by the proposed Agreement Change and any supporting documentation;
- 2.1.2** provide reasonable evidence that the Supplier is performing efficiently and that it has reviewed any reasonable alternatives to accommodate the Agreement Change without adjusting or increasing the Service Charges ^{s47C} including, wherever possible, utilising any capacity of the existing Supplier Personnel;
- 2.1.3** provide details of proposed one-off charges and/or changes to the on-going Service Charges ^{s47C} based upon the above;
- 2.1.4** provide details of any adverse impact on the Services or the Performance Standards to accommodate the requested Agreement Change without adjusting or increasing the Service Charges ^{s47C} and
- 2.1.5** provide, on an open book basis, any other relevant information, including information justifying any proposed one-off charges or changes to the Service Charges ^{s47C} and any base data and charging assumptions required by the Department to verify such proposed changes.

2.2 ^{s47C}

s47C

3. DECREASE IN SERVICE CHARGES s47C

- 3.1** Where there is a decrease in the Service Charges s47C the Supplier must detail the reduction, providing reasonable supporting documentation (on an open book basis) sufficient for the Department to assess the proposed decrease.

4. REVIEW AND APPROVAL

- 4.1** The outcome of the Fee Review Procedure, including the information specified in Sections 2 and 3 of this Annex 8-3, must be communicated to the Department as part of the completed Part B of the CCN and is deemed to form part of the Supplier's formal proposal for the Agreement Change set out in that Part B.

- 4.2** The Department will review the notification and, following such review, will either:

- 4.2.1 accept or reject the Supplier's proposal;
- 4.2.2 request amendment to the notification providing reasonable details of the items in the notification that the Department rejects; or
- 4.2.3 request more information from the Supplier as may be reasonably required by the department to review the notification.

At the Department's request, the Supplier will resubmit its proposal with amendments as discussed between the parties.

- 4.3** Any agreed one-off charge, ongoing separate charges or adjustment to the Service Charges s47C will be subject to the approval of a duly authorised person from each party.

ANNEX 8-4 SOLUTION CHANGE PROCEDURE

1. SOLUTION CHANGES

- 1.1 The Solution Change Procedure described in this Annex 8-4 applies to any change to the Supplier's Solution that does not result from an Agreement Change and which continues to meet the Services Requirements (a "**Solution Change**").
- 1.2 For the avoidance of doubt, the following circumstances are deemed to not be Solution Changes (and, accordingly, will be agreed through the Change Control Procedure or other procedure stated in the Agreement to apply to the particular change):
- 1.2.1 a change to the Supplier's Solution which results from an Agreement Change;
 - 1.2.2 a change to the Supplier's Solution which results in the Supplier's Solution not meeting the Services Requirements;
 - 1.2.3 a change to the Supplier's Solution which changes the Service Charges s47C (if any);
 - 1.2.4 a change to the location of a Service Centre;
 - 1.2.5 a change to the Roll-Out Schedule;
 - 1.2.6 the removal or replacement of a Material Subcontractor;
 - 1.2.7 a change to the Supplier Personnel approved to fill a Key Position; or
 - 1.2.8 any other change which is expressed in the Agreement to be subject to the Change Control Procedure.

2. THE PROCEDURE

- 2.1 Except in the circumstances referred to in Section 2.4, the Supplier may implement Solution Changes without the prior consent of the Department, provided that the procedure in Sections 2.2 and 2.3 is complied with.
- 2.2 Where reasonably practicable, the Supplier must, through the weekly Operational Meetings held in accordance with Schedule 7 (**Governance**), notify the Department of any proposed Solution Change before implementing such Solution Change. If such advance notice is not reasonably practicable, the Supplier must notify the Department's Contract Officer as soon as reasonably practicable after the implementation of such Solution Change.
- 2.3 After the Supplier has given notification pursuant to Section 2.2, the parties will discuss the nature and effect of such Solution Change and the Supplier must adopt any reasonable recommendations made by the Department.
- 2.4 The Supplier must not implement a Solution Change without obtaining the prior written consent of the Department's Contract Officer if:
- 2.4.1 the Supplier has any reasonable doubt that a Solution Change will not meet the Services Requirements;

- 2.4.2 such Solution Change adversely affects the Department's ability to exit from the Agreement on a Termination by hindering or increasing the cost to the Department of (a) performing the Removed Services itself; or (b) receiving the benefit of services similar to the Removed Services from a Successor Supplier. Such Solution Changes include:
- (a) the introduction of a new Supplier Subcontractor for which the Supplier is not able to negotiate the right for the Department or a Successor Supplier to take the assignment or novation of the Supplier Subcontract on a Termination;
 - (b) the use of an Asset which is not exclusively dedicated to the fulfilment of the Services Requirements;
 - (c) the introduction of new Third Party Software for which the Supplier cannot obtain an appropriate IPR Transfer Right or for which the licence fee is greater than for the Software that is being replaced; and
 - (d) the introduction of Supplier Software to replace Third Party Software;
- 2.4.3 such Solution Change affects the security of the Service Centres, the Department, Department Data or Client Data;
- 2.4.4 such Solution Change is a material or significant change to the Supplier's Solution;
- 2.4.5 such Solution Change restricts or limits the ability of the Supplier Solution to be flexible to meet the future requirements of the Department;
- 2.4.6 such Solution Change diminishes the quality or scope of the Services provided to Clients or has an adverse effect on the Supplier's performance as measured against the Service Levels and Service Credits;
- 2.4.7 such Solution Change changes any part of the Supplier's Solution for which the Supplier was required to obtain the Department's approval or consent. Such a Solution Change includes, for example, a change to any aspect of the Suppliers Solution which formed part of the Readiness Criteria during Transition;
- 2.4.8 such Solution Change has an effect on the day-to-day operations of the Department or changes the way in which the Department interacts or interfaces with the Supplier;
- 2.4.9 the Agreement expressly states that such Solution Change requires the Department's approval or consent; and
- 2.4.10 the effect of the Solution Change is such that it is reasonable to conclude that the Department should be notified and consulted about such Change before it is implemented.

3. ANNUAL REVIEW OF SOLUTION CHANGES

- 3.1 As part of the Annual Review, and in accordance with **Clause 5** of the **Terms and Conditions**, the parties will conduct a review of the Supplier's Solution to ensure that the Supplier's Solution continues to meet and fulfil the Services Requirements. If

such review establishes that the Supplier's Solution fails to meet and fulfil the Services Requirements, the procedure in Section 4 of this **Annex 8-4** applies.

4. NON-COMPLIANT SOLUTION CHANGES

4.1 If, as part of the Annual Review process or otherwise, it is established that:

- 4.1.1 as a result of a Solution Change implemented by the Supplier, the Supplier's Solution fails to meet and fulfil the Services Requirements; or
- 4.1.2 the Supplier has implemented a Solution Change without the prior written consent of the Department in circumstances which, in accordance with Section 2.4 above, required the Supplier to obtain such consent,

then, at the Department's option, the Supplier must either:

- 4.1.3 implement changes to the Supplier's Solution as necessary to meet and fulfil the Services Requirements (with no change to the Service Charges ^{s47C} [REDACTED] or
- 4.1.4 apply such regression procedures as necessary in order to reverse the implementation and impact of the Solution Change.

SCHEDULE 9
HUMAN RESOURCE MANAGEMENT

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HUMAN RESOURCE MANAGEMENT**1. INTRODUCTION**

- 1.1** This Schedule 9 (**Human Resource Management**) sets out the Department's requirements governing the engagement, training, retention and appointment of Supplier Personnel, the Supplier's obligations concerning Key Positions and Supplier Subcontractors and any Material Subcontractors.
- 1.2** In this Schedule 9 (**Human Resource Management**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).
- 1.3** This Schedule 9 (**Human Resource Management**) comprises of three main parts, namely:
- **Part A** which sets out the **Supplier Personnel Requirements**;
 - **Part B** which sets out the **Subcontractor and Material Subcontract Requirements**; and
 - **Part C - Annexures**

2. PART A - SUPPLIER PERSONNEL REQUIREMENTS

- 2.1** The Supplier must use an adequate number of Supplier Personnel to fulfil the Services Requirements, and must ensure that all Supplier Personnel who perform the Services are properly trained, experienced, competent and capable of meeting the requirements of the tasks assigned to them in a professional and timely manner and to a standard acceptable to the Department.
- 2.2** The Department has absolute discretion to approve or reject any Supplier Personnel (or people under consideration to be Supplier Personnel) nominated by the Supplier to perform any Services under the Agreement. The Department may request a list of Supplier Personnel (or people under consideration to be Supplier Personnel) nominated by the Supplier and may approve or reject them. The Supplier must not use any Supplier Personnel that have been rejected by the Department to perform any Services under the Agreement. Where specified by the Department, the Supplier may be required to use only Supplier Personnel that have been approved by the Department in accordance with this Section 2.2 to perform Services under the Agreement.
- 2.3** The Supplier must notify the Department immediately upon identification of a need for movement or rotation of Supplier Personnel that may have an adverse effect on the performance of the Services. The Supplier must notify the Department of the movement of any person in a Key Position. The Supplier must demonstrate in advance how it will continue to meet Services Requirements in accordance with Section 2.1.
- 2.4** The Supplier must ensure that Supplier Personnel are trained, qualified, skilled and instructed in respect of their relevant positions and, in particular, in relation to:
- 2.4.1** their duties and the relevant compliance issues pertaining to those duties under the Agreement;

- 2.4.2 the Service Levels which are of particular relevance to them in carrying out their duties; and
- 2.4.3 the need to observe standards of integrity, courtesy, consideration, equality and diversity in the performance of their duties in accordance with Good Industry Practice.
- 2.5** The Supplier must ensure that all Supplier Personnel comply with:
- 2.5.1 any applicable Commonwealth and Department Policies notified to the Supplier or for which the Supplier ought reasonably to know, which include any health or safety requirements, building access and security procedures and Department Policies relating to conduct of personnel admitted to the Supplier Facilities; and
- 2.5.2 any applicable obligations of the Supplier under the Agreement in respect of Confidential Information and data security,
- in accordance with Schedule 13 (**Applicable Requirements**).
- 2.6** All Supplier Personnel engaged in positions which require them to speak to Clients or to read, understand, interpret or input Client Data must be appropriately skilled in the English language and the predominant language(s) to the level required to allow them to carry out their duties.
- 2.7** The Supplier must comply with Schedule 3 (**Security**) in respect of all Supplier Personnel and ensure that all Supplier Personnel comply with the requirements of Schedule 3 (**Security**). The Supplier must pay for all costs associated with its compliance with Schedule 3 (**Security**) in respect of all Supplier Personnel.
- 2.8** The Supplier must ensure that all of the Supplier Personnel have at all times the legal right to work in the relevant Country where they are performing Services in the fulfilment of the Services Requirements and the Supplier must retain records verifying compliance with all such relevant Laws (including, if necessary, appropriate visas and/or work permits).
- 3. SUPPLIER PERSONNEL RETENTION**
- 3.1** The Supplier agrees that it is in its best interests and essential for the fulfilment of the Services Requirements in accordance with the Performance Standards to ensure the continuity of Supplier Personnel. Accordingly, the Supplier must use Commercially Reasonable Efforts to minimise the Turnover Rate of Supplier Personnel.
- 3.2** The Supplier must, when requested by the Department, provide reports on the Turnover Rate of Supplier Personnel by grade of staff and location. The Supplier must keep the Turnover Rate to a reasonable level, having regard to local conditions.
- 4. REPLACEMENT PERSONNEL**
- 4.1** The Department may at any time notify the Supplier that it requires the Supplier to remove and replace any Supplier Personnel, stating the reasons for the requirement, unless the Department cannot reveal the reasons due to security or confidentiality requirements.

- 4.2** If the Department notifies the Supplier in accordance with Section 4.1, the following procedure will apply:
- 4.2.1 if the reason for the request is due to:
- (a) a breach of Law or a breach of applicable Commonwealth and Department Policies by that Supplier Personnel;
 - (b) a breach of security, confidentiality or privacy requirements under the Agreement;
 - (c) that member of the Supplier Personnel being a threat to the health, safety or security of any Client or Department Personnel, Department Data or Department Assets;
 - (d) that member of the Supplier Personnel not performing competently or performing in a way disruptive to the Department's business; or
 - (e) serious misconduct by that Supplier Personnel,
- unless otherwise required by the Department in the notice, the Supplier must immediately remove that Supplier Personnel from being involved in the fulfilment of the Services Requirements; and
- 4.2.2 in any other case, or in relation to Section 4.2.1, where required by the Department in the notice:
- (a) within two (2) Business Days after receipt of the notice, the Supplier must investigate the reasons stated in the notice, consult with the Department to discuss its findings (including any ramifications of replacing the person) and attempt to resolve any problems with the person; and
 - (b) if the Department still requires the replacement of the person after the Supplier has consulted with the Department, the Supplier must promptly replace that Supplier Personnel.
- 4.3** If the Supplier is required to replace Supplier Personnel in accordance with this Section 4, it must:
- 4.3.1 fill the vacated position with another person with suitable training, experience and skills to meet the requirements of the assigned tasks; and
- 4.3.2 ensure that it immediately withdraws any access the person being replaced may have to the Department Data, Client Data, Infrastructure Systems and the Department Facilities.
- 4.4** Nothing in the Agreement grants the Department the right to require the Supplier to terminate any individual's employment or engagement with the Supplier or any Supplier Subcontractor.
- 4.5** The replacement of Supplier Personnel in accordance with this Schedule 9 (**Human Resource Management**) will be made at the Supplier's cost. To avoid doubt, the Supplier is not entitled to increase the Service Charges ^{s47C} as a result of any replacement of Supplier Personnel.

5. KEY POSITIONS

5.1 The list of Key Positions and the Supplier Personnel approved by the Department to fill the Key Positions at the Effective Date are specified in Annex 9-1.

5.2 The Parties may agree new Key Positions from time to time but only in accordance with the procedure set out in Section 5.4.

5.3 The Supplier must:

5.3.1 ensure that:

- (a) each person in a Key Position spends an appropriate amount of time and effort to enable them to discharge their duties in the Key Position; and
- (b) as far as possible, the Key Positions are filled at all times;

5.3.2 only use the Supplier Personnel approved by the Department in accordance with the procedure set out in Section 5.4 to fill or replace someone in a Key Position;

5.3.3 not replace a person in a Key Position unless the Supplier has complied with that procedure set out in Section 5.4; and

5.3.4 promptly notify the Department if any person in a Key Position becomes unable to spend the amount of time and effort required to enable them to carry out their duties in fulfilling the Services Requirements or gives notice of the termination of their employment or engagement.

5.4 Before appointing or replacing a person in a Key Position, whether as an initial or subsequent appointment, the Supplier must:

5.4.1 notify the Department of the proposed appointment (if possible, at least twenty (20) Business Days prior to the proposed appointment);

5.4.2 if required by the Department, provide the Department with a resume and other information about the individual reasonably requested by the Department;

5.4.3 if the Department in good faith objects to the proposed appointment, attempt to resolve the Department's concerns; and

5.4.4 if the Parties are unable to resolve the Department's concerns within five (5) Business Days, not appoint the individual to that position and propose to the Department the appointment of another individual of suitable ability and qualifications, whose approval will be subject to the same process as set out in this Section 5.

6. PART B – SUBCONTRACTORS AND MATERIAL SUBCONTRACTORS

6.1 This Part B of this Schedule 9 (**Human Resource Management**) sets out the provisions regarding the Supplier's ability to appoint and change Supplier Subcontractors, the approval by the Department of Material Subcontractors and the requirements of any Material Subcontract.

6.2 Section 7 of this Schedule 9 (**Human Resource Management**) applies to all Supplier Subcontractors. In addition, Section 8 applies to Material Subcontractors. The provisions of Part B of this Schedule 9 (**Human Resource Management**) are subject to **Clause 26.2** of **Terms and Conditions**.

6.3 The objectives of this Part B are to ensure that:

- 6.3.1 the Supplier retains the overall responsibility for fulfilling the Service Requirements, in accordance with Sections 7.1 and 7.3 notwithstanding any subcontracting to Supplier Subcontractors;
- 6.3.2 appropriate terms of the Agreement are flowed-down to Supplier Subcontracts in accordance with Sections 7.2 and 8.2;
- 6.3.3 the Department may require the Supplier to remove Supplier Subcontractors in accordance with Section 7.4; and
- 6.3.4 the Department's prior consent is sought before a Material Subcontractor is appointed or removed by the Supplier in accordance with Section 8.

7. SUPPLIER SUBCONTRACTORS

7.1 Supplier Subcontracts

- 7.1.1 The Supplier must only use subcontractors that have been approved by the Department in accordance with **Clause 26.2** of the **Terms and Conditions** to provide the Services.
- 7.1.2 In accordance with **Clause 26.1** of the **Terms and Conditions**, by the Effective Date, the Supplier must provide a list to the Department of the Supplier Subcontractors, and except for the Subcontractors that have already been approved by the Department, the Department may approve or reject them.
- 7.1.3 At the request of the Department, but not more than once in each six (6) month period, the Supplier must provide the Department with a list of the Supplier Subcontracts together with a summary of key terms in each Supplier Subcontracts which must include, as a minimum, the Subcontract Flow-Down Provisions. If such summary does not provide the level of detail to satisfy the Department, the Department may request, and the Supplier must provide to the Department, a copy of a Supplier Subcontract.
- 7.1.4 The Supplier remains liable at all times for any and all acts or omissions of the Supplier Subcontractors (including Material Subcontractors) arising out of or in connection with the Agreement.
- 7.1.5 The Supplier must inform the Supplier Subcontractors that their participation in performing all or part of the Services may be publicly disclosed.

7.2 Supplier Subcontractor flow down

- 7.2.1 The Supplier must use Commercially Reasonable Efforts to ensure that each Supplier Subcontract imposes on that Supplier Subcontractor:

- (a) the terms, conditions and obligations of the Agreement as they apply to the Supplier and the Supplier Personnel that are relevant to the performance by that the Supplier Subcontractor of its obligations to the Supplier;
- (b) a requirement to comply with Department guidelines and Commonwealth and Department Policies that are relevant to the Supplier Subcontractor's fulfilment of the Services Requirements or apply in relation to the Supplier Subcontractor's access to or use of Confidential Information, the Department Data, Client Data or Department Facilities, Department Assets and Department Material, including:
 - (i) the security policies and standards of the Agreement including Schedule 3 (**Security**) and the Department Security Policy and Standards, as they apply to the Supplier;
 - (ii) any regulatory requirements (including rights of access and audit) which may apply to the Supplier Personnel in the fulfilment of the Services Requirements, including Schedule 12 (**Audit Access**);
 - (iii) appropriate rights and obligations in respect of data protection and confidentiality;
- (c) the right for the Department (and, where possible, a Successor Supplier) to take an assignment or novation of the Supplier Subcontract (or part of the Supplier Subcontract, where relevant), on a Termination or Services Removal for any reason (a "Subcontract Transfer Right");
- (d) obligations in relation to the ownership and licensing of Intellectual Property Rights provided or created by the Supplier Subcontractor under the Supplier Subcontract to meet the requirements of **clause 28** of the **Terms and Conditions**; and
- (e) an indemnity in favour of the Department in respect of any Claim by any employee, worker or agent of the Supplier Subcontractor that he or she has an employment relationship with the Department

(together, the "**Subcontract Flow-Down Provisions**").

- 7.2.2 The Supplier must, as soon as is reasonably practicable, and before a Supplier Subcontract is executed, notify the Department of any proposed Supplier Subcontract that refuses to agree to any of the Subcontract Flow-Down Provisions. The Supplier must also notify the Department, as soon as is reasonably practicable, of any amendment to an existing Supplier Subcontract which materially affects a Subcontract Flow-Down Provision. In each case, but subject to Section 7.2.3 where a Subcontract Transfer Right is concerned, the Parties will discuss the implications of such Supplier Subcontract not having a relevant Subcontract Flow-Down Provision and will agree, acting in good faith, the appropriate action (if any) to be taken to avoid or minimise the effects of such omission.

- 7.2.3 If the proposed Supplier Subcontractor refuses to grant a Subcontract Transfer Right or requires an additional fee for the granting of a Subcontract Transfer Right, the Supplier must notify the Department and the Department will, at its option, either:
- (a) require the Supplier to agree to such Subcontract Transfer Right, in which case the Department will pay the fee levied by the Subcontractor, provided that the Supplier has used its Commercially Reasonable Efforts to reduce such fee;
 - (b) agree with the Supplier a commercially reasonable workaround, which may include the Supplier using an alternative Subcontractor; or
 - (c) waive the obligation to obtain a Subcontract Transfer Right.
- 7.2.4 The Supplier must promptly notify the Department if the Supplier Subcontractor requests a change to the Supplier Subcontract that affects the Subcontract Flow-Down Provisions and must obtain the Supplier's prior approval prior to varying the Supplier Subcontract in a way that affects the Subcontract Flow-Down Provisions.
- 7.2.5 The Supplier must not insert any express contractual provisions into any Supplier Subcontract which would prevent a Supplier Subcontractor contracting directly with the Department or a Successor Supplier.

7.3 Ability of Supplier Subcontractor to perform

- 7.3.1 The Supplier must immediately notify the Department if the Supplier has doubts concerning a Supplier Subcontractor's ability to perform the Services in fulfilment of the Services Requirements, including:
- (a) on account of changes in such Supplier Subcontractor's ownership, management, financial condition or otherwise;
 - (b) where the Supplier Subcontractor fails to meet any Performance Standards;
 - (c) where there have been material representations by the Supplier Subcontractors or concerning the Supplier Subcontractor's ability to perform the Services; or
 - (d) the Supplier believes, in its reasonable judgement, that the Supplier Subcontractor (or its personnel) is a threat to the health, safety or security of the Department (or Department Personnel) or Clients.
- 7.3.2 The Supplier must:
- (a) immediately notify the Department if an act or omission of a Supplier Subcontractor (including a Material Subcontractor) causes a problem or delay that has a material impact on the Supplier's ability to fulfil the Services Requirements; and
 - (b) implement plans to circumvent any such problem or delay including taking into account the Department's comments.

7.4 Replacement of Supplier Subcontractors

7.4.1 If the Department has reasonable grounds for concern about the performance of any Supplier Subcontractor, the following procedure applies:

- (a) the Department will notify the Supplier of such concerns, stating its reasons unless the Department Contract Manager reasonably determines that such reasons should not be provided;
- (b) the Supplier has five (5) Business Days or such other reasonable period as the Parties agree in which to investigate matters stated in the notice and discuss its findings with the Department; and
- (c) following such discussion, if the Department is not satisfied and has reasonable grounds to require the replacement of the Supplier Subcontractor the Supplier must, in accordance with a Supplier Subcontractor Transfer Plan approved by the Department cease using the Supplier Subcontractor to provide the Supplier's Solution. The Supplier Subcontract Transfer Plan will include a reasonable timetable and allow for the efficient and timely transfer of the aspect of the Supplier's Solution performed by the Supplier Subcontractor. The Supplier must implement the Supplier Subcontract Transfer Plan and ensure that the Services Requirements continue to be fulfilled.

7.4.2 For the avoidance of doubt, the Department will not have the right under this Section 7.4 to require the Supplier, or any Supplier Subcontractor, to terminate a member of the Supplier Personnel's employment. However, the member of the Supplier Personnel should be removed from providing the Services under the Agreement.

7.5 Management of Supplier Subcontractors

7.5.1 The Parties' rights and responsibilities with respect to the management and governance of Supplier Subcontractors are set out in Schedule 7 (**Governance**).

8. MATERIAL SUBCONTRACTORS

8.1 Approval of Material Subcontractors

8.1.1 Subject to clause 19.1 of the **Terms and Conditions**, the Parties agree that the Supplier Subcontractors listed and described as such in Annex 9-2 to this Schedule 9 (**Human Resource Management**) are approved by the Department as Material Subcontractors. The requirements set out in this Section 8 apply to Material Subcontractors in addition to those set out in Section 7.

8.1.2 Except for the Material Subcontractors identified in Section 8.1.1 above, the Supplier must obtain the Department's prior written approval (which the Department will not unreasonably withhold or delay) to appoint any Material Subcontractor during the Term. The Supplier must submit to the Department a request for such consent which specifies:

- (a) the components of the Supplier's Solution that the Supplier proposes to subcontract and the scope of the proposed Supplier Subcontract;

- (b) the nature of the contract between the Supplier and the proposed Material Subcontractor, including any terms and conditions material to, or inconsistent with, the terms and conditions of the Agreement, and to the extent that there is an inconsistency, how the Supplier proposes to manage this;
 - (c) information on the Supplier's selection process and reason for selecting the proposed Material Subcontractor including the identity, background and qualifications of the proposed Material Subcontractor;
 - (d) the way in which the Supplier proposes to manage a new Material Subcontractor, including the relevant contractual clauses in the Supplier Subcontract dealing with this; and
 - (e) the termination provisions including, in particular, whether the Material Subcontractor's termination rights are wider than the Supplier's under the Agreement.
- 8.1.3 Prior to appointing any Material Subcontractor, and as part of the Department's approvals process for such appointment, the Parties will consider whether the Department:
- (a) has any doubts concerning: a proposed Material Subcontractor's ability to undertake the Services Requirements to be subcontracted under the proposed Material Subcontract; the Material Subcontractor's ownership, management, financial condition or otherwise; a material misrepresentations by or concerning such Material Subcontractor's ability; and/or
 - (b) believes, in its reasonable judgement, that the proposed Material Subcontractor (or its personnel) is a threat to the health, safety or security of the Department, the Department Personnel or Clients.
- 8.1.4 The provisions of this Section 8.1 apply to any replacement or removal of any Material Subcontractor.
- 8.1.5 If a Supplier Subcontractor is reclassified as a Material Subcontractor during the Term, the Supplier must seek the Department's prior written approval in accordance with Section 8.1.2 and enter into a Material Subcontract in accordance with Section 8.2, or vary the existing Supplier Subcontract so that it meets the requirements of a Material Subcontract.

8.2 Provisions in relation to Material Subcontractors

- 8.2.1 Subject always to Section 8.1, the Supplier must ensure that (unless otherwise agreed in writing between the Department and the Supplier) each Material Subcontract used exclusively in the fulfilment of the Services Requirements contains back-to-back provisions with the Agreement in order to ensure that each Material Subcontract embodies and contains the key terms of the Agreement including, in particular:
- (a) the Subcontract Flow-Down Provisions;

- (b) Service Levels and Service Credits no less onerous than the equivalent Performance Standards in the Agreement;
 - (c) the right of termination for convenience by the Supplier on three (3) months' notice for each Material Subcontract (to enable the Supplier to terminate the Material Subcontract in circumstances of a Termination for Convenience);
 - (d) the right of the Department (and, where possible, a Successor Supplier) to take an assignment or novation of the Material Subcontract (or part of the Material Subcontract, where relevant), on a Termination or Services Removal for any reason;
 - (e) obligations no less onerous than those contained in the Agreement in respect of confidentiality, privacy, data security, data protection, audit and rights of access and Intellectual Property Rights;
 - (f) no right to subcontract, novate or assign the Material Subcontractor's rights or transfer its obligations without seeking the Supplier's and the Department's prior consent;
 - (g) a representation that the Material Subcontractor is the employer of its employees and has not subcontracted them; and
 - (h) an acknowledgement that there is not relationship of employment, agency or partnership between the Department and the Material Subcontractor, its officers, employees, agents and contractors.
- 8.2.2 The Supplier must ensure that each Material Subcontractor (in terms reasonably acceptable to the Department) indemnifies the Department against any Losses arising as a result of any decision of any competent statutory, legal or regulatory authority that the Department is the employer of Material Subcontractor, its officers, employees, agents and contractors. The Supplier must use Commercially Reasonable Efforts to ensure that the Department is named as a third party beneficiary under the terms of each Material Subcontract and that a term is expressly included that provides that:
- (a) where permitted by the applicable Law, the Department has the right to enforce any term of the Material Subcontract; and
 - (b) the Supplier and the Material Subcontractor may not agree to rescind or vary such Material Subcontract without obtaining the prior written consent of the Department.
- 8.2.3 The Supplier must provide the Department with a copy of the proposed Material Subcontract to enable the Department to verify that its requirements in relation to Material Subcontracts have been met and, if requested by the Department, permit the Department to participate in negotiations with the proposed Material Subcontractor.
- 8.2.4 The Supplier must notify the Department of any change affecting the Material Subcontract or Material Subcontractor which may have a material impact on the fulfilment of the Services Requirements, together with all reasonable information to enable the Department to consider the likely

impact of the change, and the Parties will discuss and seek to agree ways in which any adverse impact may be minimised.

- 8.2.5 The Supplier must not terminate any Material Subcontract, or allow it to expire without renewal, without having first consulted with the Department and discussed the Supplier Subcontract Transfer Plans, and any potential impact on the fulfilment of the Services Requirements should be considered in accordance with the Change Control Procedures. For this purpose, the Supplier must notify the Department at least six (6) months before a Material Subcontract is due to expire. Unless otherwise agreed by the Department, the termination, renewal or replacement of a Material Subcontract does not entitle the Supplier ^{s47C} to modify the Service Levels and Service Credits.

9. NO SOLICITATION OF EMPLOYEES

- 9.1 During the Term and for a period of six (6) months after Termination, the Supplier must not (and must ensure that the Supplier Subcontractors do not) directly or indirectly solicit or attempt to solicit or employ or engage or procure the employment or engagement as an employee, director, officer or independent contractor or consultant, without the prior consent of the Department (where such consent will not be unreasonably withheld or delayed), of any of the Department Personnel involved in the Agreement.
- 9.2 For the purposes of Section 9.1, "*solicit*" means an approach to an individual with a view to employ or engage or procure the employment or engagement of that individual as an employee, director, officer or independent contractor or consultant, other than by way of general advertising provided that such advertising is not targeted at a particular person or class of persons.

10. NO DISCRIMINATION

- 10.1 The Supplier must comply with and ensure that Supplier Personnel and the Supplier Subcontractor(s) comply with:
- (a) all relevant Laws, policies and directives, in any Country covered by the scope of the Agreement; and
 - (b) Commonwealth and the Department policies as directed by the Department and as included in Schedule 13 (**Applicable Requirements**),

relating to discrimination in employment or otherwise during the course of performing Services under the Agreement.

PART C – ANNEXURES**ANNEX 9-1 KEY POSITIONS TABLE****Table 1**

Key Position	Approved Appointee
Corporate Office	
Chief Operating Officer	
Project Rollout Coordinator	
Security Oversight Committee and Supplier Security Manager	
Human Resource Manager	
Supply Chain Manager	
IT Manager	
Quality & Service Delivery Manager	
Finance Manager	
Contract Manager	
Tier 2 Delivery Unit	
Operations Manager	
Contract Manager	
Service Delivery Lead	
IT Manager	
WHS Manager	
Finance Manager	
Tier 1 Delivery Unit	
Operations Manager	
Contract Manager	
Service Delivery Lead	
IT Manager	
WHS Manager	
Facility Manager	

Add in any other Tier 1 delivery units.

ANNEX 9-2

MATERIAL SUBCONTRACTORS TABLE

NOTE TO DRAFTERS:

Insert a table listing in full details of Subcontractors utilised by the Supplier in the delivery of Agreement Services

**SCHEDULE 10
FACILITIES**

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ANNEX 10-1 REQUIREMENTS FOR SUPPLIER FACILITIES..... 3

ANNEX 10-2 APPROVED SUPPLIER FACILITIES 4

FACILITIES**1. INTRODUCTION**

- 1.1 This Schedule 10 (**Facilities**) sets out the parties' rights and obligations in respect of the Facilities, including the terms on which each party can access the other party's premises.
- 1.2 In this Schedule 10 (**Facilities**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SUPPLIER FACILITIES**2.1 Service Centres**

- 2.1.1 All Service Centres must meet the minimum requirements set out in Annex 10-1.
- 2.1.2 The Department may, on a case-by-case basis, agree variations to the minimum requirements set out in Annex 10-1 or require additional requirements. The Supplier may request variations to the minimum requirements set out in Annex 10-1 through the Change Control Procedure.
- 2.1.3 The premises listed in Annex 10-2 have been approved by the Department as Service Centres or other Supplier Facilities. If the Supplier wishes to add a new Service Centre it must obtain the Department's prior written approval (which may be withheld at the Department's absolute discretion).
- 2.1.4 The Supplier may request to change the location of a Service Centre during the Term. Any change to the location must be in accordance with **Clause 37** of the **Terms and Conditions**. Each new Service Centre must meet the minimum requirements set out in Annex 10-1 and other applicable requirements, including the security requirements set out at Schedule 3 (**Security**). Annex 10-2 will be updated through the Change Control Procedure to include any new Service Centre, or any change to a Service Centre.
- 2.1.5 In considering the suitability of a location for a Service Centre, the parties will consider pertinent factors, including:
- (a) security risks and measures;
 - (b) proximity to the Department;
 - (c) the role of the facility in reducing costs, such as reduced staff churn;
 - (d) extent to which the facility meets relevant Government guidelines and policies; and
 - (e) suitability for suggested shared facilities.
- 2.1.6 The Supplier must obtain the Department's prior written consent, where such consent will not be unreasonably withheld, to use the Service Centres for any purpose other than fulfilling the Services Requirements, including providing any other services to other customers.
- 2.1.7 The external signage for each Service Centre must not reference the Department or the Australian Government unless otherwise agreed with the Department.
- 2.1.8 The Supplier must not display in any part of a Service Centre material which, in the reasonable opinion of the Department, is inappropriate for premises connected to the Australian Government (including offensive, defamatory, degrading or discriminatory material or material which criticises or is otherwise detrimental to the interests of Australia).
- 2.2 Other Supplier Facilities**
- 2.2.1 All Other Supplier Facilities must meet the minimum requirements set out in Annex 10-1.

- 2.2.2 The Department may, on a case-by-case basis, agree variations to the minimum requirements for Other Supplier Facilities set out in Annex 10-1 or require additional requirements. The Supplier may request local variations to the minimum requirements set out in Annex 10-1 and, if approved by the Department, must be agreed through the Change Control Procedure.
- 2.2.3 The premises listed in Annex 10-2 have been approved by the Department as Supplier Facilities as at the Effective Date. Annex 10-2 must be updated through the Change Control Procedure to include any new approved Supplier Facility. The Supplier must not provide Services from any facility that is not approved by the Department and listed in Annex 10-2.

2.3 **GENERAL**

- 2.3.1 The Supplier must allow the Department access to Supplier Facilities, including the Other Supplier Facilities, to exercise any rights of step-in granted to the Department pursuant to **Clause 46** of the **Terms and Conditions**, or as otherwise permitted under the Agreement.
- 2.3.2 The Supplier must allow access to Supplier Facilities, including the Other Supplier Facilities, by the Department and the Department's Audit Representatives in accordance with Schedule 12 (**Audit Access**) and by any other Department nominated representative as requested by the Department. The Department will use Commercially Reasonable Efforts to ensure that this does not adversely impact the Supplier's ability to provide the Services or the services provided to the Supplier's other clients of the Service Centre.

ANNEX 10-1**REQUIREMENTS FOR SUPPLIER FACILITIES**

Each Service Centre must:

1. fulfil the security requirements set out in Schedule 3 (**Security**) and meet all other Services Requirements set out in the Agreement;
2. meet all applicable Australian legal requirements, including comply with local health and safety laws and, so far as is reasonably practicable, comply with Australian work health and safety Laws;
3. provide sufficient space and appropriate infrastructure to fulfil all of the Services Requirements. In particular, there should be adequate back-office infrastructure to protect operations and support the fulfilment of the Services Requirements, as more particularly described in Schedule 2 (**Business Requirements and Supplier's Solution**);
4. have a stable power supply to ensure that the fulfilment of the Services Requirements is not interrupted; specifically this means that each Service Centre must have an uninterrupted power supplier which provides power for short power outages and each Service Centre must have an independent power supply (such as a back up generator) capable of providing power to the Service Centre during any period of outage; and
5. provide a secure space to store all physical copies of Client Data at all times.

For each Other Supplier Facility, the Supplier must:

1. comply with the Department's Security Policy and Standards;
2. establish and maintain, at all Other Supplier Facilities, proper and adequate facilities, Equipment, supplies and properly trained and appropriately sized Supplier Personnel team including management staff and support staff;
3. properly manage, coordinate, oversee all maintenance, testing and monitoring of facilities systems, e.g. UPS systems, at the Other Supplier Facilities;
4. providing any and all telecommunication connectivity and capability (data, voice, video or other) that is required at the Other Supplier Facilities in order to provide the Services; and
5. create, update and maintain complete documentation of the Assets used to provide the Services that is located in the Other Supplier Facilities.

ANNEX 10-2

APPROVED SUPPLIER FACILITIES

PART 1: SERVICE CENTRES

The following table lists the locations of each Service Centre from which the Supplier may provide the Services. The Supplier warrants that the address listed for each Service Centre will be utilised for the provision of service delivery.

Table 10-2-1

Service Centre Location	Security Accreditation*	Address of Service Centre

* All Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) must have a Protective Security Policy Framework security accreditation at a minimum Zone 2 Security Zone. All other Supplier Facilities must have a Protective Security Policy Framework security accreditation at a minimum Zone 1 Security Zone.

PART 2: OTHER SUPPLIER FACILITIES

Other Supplier Facility Location	Address of Other Supplier Facility	Security Accreditation*	Purpose/Activities to be carried out at Other Supplier Facility

* All Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) must have a Protective Security Policy Framework security accreditation at a minimum Zone 2 Security Zone. All other Supplier Facilities must have a Protective Security Policy Framework security accreditation at a minimum Zone 1 Security Zone.

**SCHEDULE 11
REPORTING**

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REPORTING**1. SCOPE**

- 1.1** This Schedule 11 (**Reporting**) sets out the range of Reports that the Supplier must provide during the Term to enable the Parties to manage the Agreement effectively. This Schedule 11 (**Reporting**) does not document each and every Report required but instead sets a framework for reporting which will:
- 1.1.1 deliver accurate and relevant information to the Parties in respect of the performance of the Services Requirements;
 - 1.1.2 support effective governance of the Agreement and the principles of partnership described in Schedule 7 (**Governance**);
 - 1.1.3 enable management of the Service Levels and Service Credits regime detailed in Schedule 6 (**Service Levels and Service Credits**);
 - 1.1.4 support and evidence the agreed commercial arrangements in respect of Assets, finance, and resource usage as those commercial arrangements are made;
 - 1.1.5 support the baselining and planning processes for service improvement activities and future business delivery; and
 - 1.1.6 provide for ongoing development of reporting requirements.
- 1.2** **Annex 11-1** sets out an indicative list of the main Reports required by the Department to manage the Agreement, in particular the Services Requirements and the Supplier's Solution.
- 1.3** If, after the Effective Date, it is noted by either Party that a Report is referenced in another Schedule of the Agreement but not referenced in this Schedule 11 (**Reporting**), the Supplier is still required to provide that Report; and, the Parties will amend **Annex 11-1** to add that Report.
- 1.4** As soon as practicable, but in any event no later than three (3) months after the Effective Date, the Parties will review **Annex 11-1** and will, subject to section 1.3, agree on a list of Reports to be provided by the Supplier and the format, purpose, content, frequency and distribution of such Reports. **Annex 11-1** will be updated no later than five (5) Business Days after this meeting to reflect the agreed reporting requirements.
- 1.5** Nothing in this Schedule 11 (**Reporting**) constrains the Department from reasonably requesting additional data, information or Reports relating to the provision of existing Services Requirements or to support the Department undertaking assessments of proposed Services improvement solutions from the Supplier on an ad hoc basis and in accordance with the Agreement (with such requests being at no cost to the Department).
- 1.6** As methods of managing and optimising the effectiveness and value of information systems evolve during the Term, the Supplier must work cooperatively with the Department, within the terms of the Agreement, to investigate potential benefits to the Department of adopting new technologies and/or methodologies which deliver improved reporting.

- 1.7 In this Schedule 11 (**Reporting**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. REPORTS

- 2.1 **Annex 11-1** details the main management Reports. Further reporting may be expected of the Supplier as part of the fulfilment of Services, including Services Requirements, Services failure, and Default activities. Where further Reports are required, the Department will notify the Supplier.
- 2.2 Minor changes to the content and format of Reports requested by the Department must be carried out by the Supplier. This will be at no cost to the Department and have no impact on the pricing of Service Charges ^{s47C} [REDACTED]. New reporting requirements or substantial changes to existing Reports will be agreed by the Parties pursuant to the Change Control Procedure in Schedule 8 (**Change Control**).

3. QUALITY AND FORMAT

- 3.1 All Reports are to be provided in the format specified in **Annex 11-1** for each Report, unless otherwise specified in this Agreement or agreed by the Department.
- 3.2 All Reports are to be communicated to the Department according to the IT Operations Plan.
- 3.3 All Reports are to provide sufficient granularity in the data and/or artefacts delivered to the Department to ensure they are fit for purpose.
- 3.4 The Supplier must ensure all Reports follow a quality assurance process prior to being submitted to the Department.
- 3.5 Any Report that does not meet the requirements of this Agreement may be rejected by the Department. The Supplier must rectify and resubmit any rejected Report within five (5) business days or as otherwise determined by the Department.

4. DELIVERY

- 4.1 Although different timings may be agreed, the Department's reporting requirements are due Canberra local time as follows:
- 4.1.1 for **daily Reports**, by 1600 hours on the next Business Day;
- 4.1.2 for **weekly Reports**, by 1600 hours on the first Business Day of the following week of the scheduled interval;
- 4.1.3 for **monthly Reports**; by 1600 hours on the 10th Business Day of the following month of the scheduled interval;
- 4.1.4 for **quarterly Reports**, by 1600 hours on the 10th Business Day after the end of the quarter;
- 4.1.5 for **annual Reports**, by 1600 hours on the 20th Business Day after end of the year; and
- 4.1.6 financial accounting and reporting data, except as otherwise specified, as reasonably required by the Department.

5. RAW DATA

- 5.1** The Supplier must retain the raw data underpinning each Report for the relevant period/s specified in the Agreement, or for such other period as may be reasonably required by the Department in order to allow the Department to verify the relevant Report.
- 5.2** The Supplier must make available to the Department upon request and in the format requested, all data relevant to the Agreement, including the raw data underpinning the Reports to enable the Department to undertake its own reporting and analysis.

6. DISTRIBUTION OF REPORTS

- 6.1** Reports must be supplied as a minimum to the Department in the prescribed format, listed in **Annex 11-1**.
- 6.2** The Supplier must distribute up to three (3) hard copies of Reports to nominated recipients as specified by the Department at no cost to the Department. There will be no cost to the Department for the distribution of additional soft copies of Reports, regardless of the number of copies.
- 6.3** The Department reserves the right to modify the distribution lists for all Reports as specified in **Annex 11-1**.

ANNEX 11-1

REPORTING REQUIREMENTS

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
Contract Management Reports					
1.	Supplier Management Report to the Contract Manager	Monthly	Soft copy Portable Document Format	<p>Provide "highlights" and "lowlights" in respect of the delivery of the Supplier's Solution; "RAG" (Red, Amber, Green) markings against Business Requirements. The threshold for what constitutes Red, Amber and Green markings will be agreed between the Supplier and the Department.</p> <p>Provide high level summary of actual monthly and accumulative Service Levels and Service Credits results against expected Service Levels and Service Credits expectations as set out at Schedule 6 (Service Levels and Service Credits), financial statements and contract amendments/variations.</p>	
2.	Agreement Management Issues	Monthly	Soft copy Portable Document Format	<p>Both Parties must maintain Agreement Management Logs and report to each other on new and continuing issues from inception to resolution, showing escalation as appropriate.</p> <p>The Supplier must maintain and manage a Central Issues Log and report management of central issues against it. The Report based on the Central Issue Log should detail the issue, mitigation and treatment decisions, agreed resolution activity, evidence of compliance with appropriate change and security processes and obligations, outcome of the resolution, including impact on business process and the Agreement.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
3.	Supplier Continuous Improvement Report	Bi-Annually	Soft Copy Portable Document Format	Supplier Continuous Improvement Report outlines related Services which impact on the performance of the Service Requirements and Service Levels and Service Credits, the Services Levels impacts, the business process benefit and value expectations, activity and approval status and the expected benefits realisation date.	
4.	Transition Management	As specified in Schedule 4	Soft copy Portable Document Format	Supports requirements set out in Schedule 4 (Transition Management).	
5.	Change Control	As specified in Schedule 8	Soft copy Portable Document Format	Supports the requirements set out in Schedule 8 (Change Control).	
Finance Reports					
6.	Rolling Financial Statement	Annually	Soft copy Raw Data Format	Reports on the Supplier's cost base, management accounts by profit or cost centre, and cost element at various levels within the hierarchy (within 3 months of financial year end).	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
s47C					
Security Reports					
10.	Security Overview	Annually or at the Department request	Soft copy Portable Document Format	Provides assurance that the Supplier (and any Supplier Subcontractors) is implementing the security policy in accordance with Schedule 3 (Security). Indicates how effective the Supplier is in implementing the Security Policy in accordance with Schedule 3 (Security).	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
11.	Personnel Security	Quarterly or at the Department's request	Soft copy Portable Document Format	<p>The Report will confirm that:</p> <ol style="list-style-type: none"> 1. all successful applicants offered employment with the Supplier undertaking the Department's work have met all the security criteria before taking up duty; 2. all employees of the Supplier have signed the appropriate statutory undertaking not to disclose Client information with reminders of their obligations every six (6) months. Any breaches of the undertakings and the disciplinary action taken should be included; 3. the appropriate levels of vetting for Authorised Personnel was completed prior to staff taking up duty; and 4. any Departmental requests not to use specified individuals on the Department business have been implemented and continue to be complied with. <p>All of the above apply to all agents and personnel of the Supplier and Supplier Subcontractors performing duties under the Agreement.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
12.	Physical Security	Annually	Soft copy Portable Document Format	The Report must: 1. confirm all agreed physical security measures are in place and functioning normally; 2. address any issues open at the time of the previous Report and any new requirements or deficiencies identified since that Report was written and how these have been handled and managed; and 3. report if there are, or have been, any problems related to the physical security measures.	
13.	Cyber Security	Annually	Soft copy Portable Document Format	The Report must: 1. confirm all agreed cyber security measures are in place and functioning normally; 2. address any issues open at the time of the previous Report and any new requirements or deficiencies identified since that Report was written and how these have been handled and managed; and 3. report if there are, or have been, any problems related to the physical security measures.	
Business Reports					
14.	Business Continuity Management	Annually	Soft copy Portable Document Format	The Report must list all issues that may affect business continuity, and must include evidence of the business impact review and business recovery strategy for each issue identified.	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
15.	Risk Management	Annually	Soft copy Portable Document Format	The Report must list all issues in relation to risk management, and must include evidence of the risk mitigation strategy for each issue identified.	
16.	Service Level Reporting	Monthly	Hard copy and Soft copy Raw Data Format	To support the requirements of the Service Level regime set out in Schedule 6 (Service Levels and Service Credits).	
Systems and Services					
17.	Problem Management/Incident Reports	Monthly or when major incidents occur	Soft copy Raw Data Format	Reports against fault fixes, incorrect closures, major incidents, etc, how these were handled and managed and the outcome.	
18.	Interactions Report	Monthly or at the Department request	Hard copy and soft copy Raw Data Format	The Report must include: <ol style="list-style-type: none"> 1. volume of Client Enquiries received per Channel per hour, per Client category, per subject of Enquiry Intention per day; 2. volume of Client Enquiries handled per Channel per hour, per Enquiry Intention, per Functional Group per day; 3. volume of Client Enquiries escalated per Tier to/from, Channel, per Enquiry Intention, per day; 4. volume of Client Enquiries received from repeat Clients, and why they felt the need to make a Client Enquiry again; 	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
				<p>5. average handling times per Channel per hour, per Enquiry Intention per day;</p> <p>6. average response times per Channel per minute, per hour, per day;</p> <p>7. average abandoned Client Enquiries per Channel per day;</p> <p>8. number of complaints and detail of those complaints made by Clients per day;</p> <p>9. number of breaches/compliance issues with self-audit and details of those breaches/compliance issues per month;</p> <p>10. percentage of Client Enquiries that were resolved, by Channel;</p> <p>11. trend analysis, by Channel; and</p> <p>12. the top 10 topics searched.</p> <p>The Supplier is to capture and store any other data relating to Client Enquiries across all Channels they are responsible for that may be able to assist the Department in obtaining insight on a Client's interaction-specific behaviour.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
19.	Client Experience	Monthly	Soft Copy Raw Data Format	The Supplier is to report on Client experience with the Services. The Report is to include: 1. the number of Clients who provided feedback (actual and percentage of total number of Clients); 2. the satisfaction rating; 3. a sample of comments across the spectrum of Client experiences; and 4. a comparison to previous period Client experience.	
20.	Knowledge Improvement	Monthly	Soft Copy Raw Data Format	The Supplier is to provide anecdotal feedback from Supplier Personnel resolving or escalating Client Enquiries to inform the Department on possible patterns, issues and resolutions to impediments in their online interactions.	
21.	Cost base	Monthly	Soft copy Raw Data Format	The Supplier is to provide a report on the cost of handling each Enquiry per Channel per month.	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
22.	Lessons Learned	End of each Transition End of Contract Service	Soft copy Portable Document Format	<p>At the Termination of the Agreement, the Supplier must provide a Report setting out:</p> <ul style="list-style-type: none"> a) A brief description of the Services (context). b) What were the issues and what solutions were tried? c) What were its major outputs? d) A description of what worked well and the key successes of the Agreement. e) What factors supported this success? f) What have been the main challenges of the Agreement? g) What have been the main challenges/shortcomings/unforeseen circumstances of the Agreement? How were they overcome (if they were)? h) Were the Service Requirements met? If not, what changes need to be made to achieve these results in the future? i) Describe the key lesson(s) learned from the Agreement. j) What could have been done differently or better? k) What would you recommend to improve future contracts elsewhere? l) What mistakes should be avoided if the Agreement were to be replicated? m) Ease of replication of successes in a different context/ country? 	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
Performance Reports					
23.	Weekly Operations Report	Weekly			
24.	Calls – Check on Application status	Monthly		Number of Client Enquiries received per region about the status of the Client's Application	
25.	Customer Satisfaction Survey	Monthly		A Report outlining the results of a customer satisfaction survey.	
26.	Key Highlights for the Month	Monthly		A Report where the Supplier provides details of key achievements for the month.	
27.	Complaints, Compliments and Suggestions Log	Monthly		A listing of comments left on a voluntary basis by Clients.	
28.	Meeting Minutes	Monthly		Provision of formal meeting minutes for any arranged meetings between the Supplier and the Department.	
29.	Number of Client Enquiries received at Service Centre, by Client Enquiry type (e.g. status, enquiry, feedback)	Monthly		A Report where the Supplier provides details of Service Centre and email Client Enquiries that breakdown the nature and extent of the Client Enquiry.	

SCHEDULE 12
AUDIT ACCESS

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AUDIT ACCESS**1. INTRODUCTION**

- 1.1** This Schedule 12 (**Audit Access**) describes the Supplier's obligations and the Department's rights in connection with the manner in which the Department may carry out Audits, the Supplier's obligations regarding Audits, risk reporting and Supplier Audits.
- 1.2** Unless otherwise agreed and in accordance with Section 3.2 of Schedule 9 (**Human Resource Management**), the Supplier must ensure that each Material Subcontractor gives the Department the same rights and agrees to fulfil the same obligations as are undertaken by the Supplier under this Schedule 12 (**Audit Access**).
- 1.3** In this Schedule 12 (**Audit Access**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. RECORD KEEPING

- 2.1** The Supplier must maintain (in an orderly, auditable and accessible manner) a complete, accurate and up-to-date audit trail of all information, data, documents and records relating to its fulfilment of the Services Requirements and otherwise relating to the Agreement (including the records and documentation specified in Section 2.2) that are required to be maintained in accordance with this Schedule 12 (**Audit Access**) and Schedule 13 (**Applicable Requirements**), to meet the Department's Audit Rights and otherwise in accordance with Good Industry Practice ("**Audit Records**") and must comply with the terms of the Agreement and Commonwealth and the Department Policies in relation to such Audit Records.
- 2.2** Without limiting Section 2.1, the Audit Records must include:
- 2.2.1** a log of the number of calls, e-mails and other forms of enquiry to Service Centres with basic data about the nature of each Client Enquiry; and
 - 2.2.2** a record of all Client Enquiries accepted by the Supplier, such record to include the date and time of the Client Enquiry, the type enquiry, and details of all supporting documentation submitted with the Client Enquiry;
- 2.3** The Supplier must maintain and, upon request, must provide the Department with access to all Audit Records and historical records or data existing and made available to the Supplier on and from the Effective Date until the latest of:
- 2.3.1** seven (7) years after the end of the Term;
 - 2.3.2** the date that all pending matters relating to the Agreement (including disputes) are closed;
 - 2.3.3** the date when such Audit Records are no longer required to meet applicable policies in accordance with Schedule 13 (**Applicable Requirements**), as such applicable policies may be amended from time to time; or
 - 2.3.4** such date as may be necessary to meet any applicable regulatory or legal requirement in accordance with Schedule 13 (**Applicable Requirements**).

3. AUDIT RIGHTS

3.1 Subject to **Clause 34** of the **Terms and Conditions**, the Department has the right to perform audits, examinations and inspections of the Supplier (and has the right to have access to, and take copies of, Audit Records) in order to:

- 3.1.1 examine the Supplier's fulfilment of the Services Requirements, including verifying compliance with the Performance Standards and the accuracy of related measuring and reporting requirements, as set out in the Agreement;
- 3.1.2 verify the accuracy of all Service Charges ^{s47C} or any adjustments thereof (and any other amounts payable under the Agreement) and of all invoices provided;
- 3.1.3 verify the integrity, confidentiality and security of the Department Data and Client Data and examine and inspect the Infrastructure Systems (or any parts thereof) that process, store, support and transmit the Department Data;
- 3.1.4 audit, to the extent applicable to the fulfilment of the Services Requirements by the Supplier, all risk management, governance and control procedures used by the Supplier to manage the risks applicable to its fulfilment of the Services Requirements, including:
 - (a) the Supplier's practices and procedures;
 - (b) the Assets used to fulfil the Services Requirements;
 - (c) the Supplier's general controls and security practices and procedures (including the performance of penetration testing);
 - (d) the Supplier's disaster recovery and back-up procedures;
 - (e) the use by or on behalf of the Supplier of any of the Department Assets; and
 - (f) the Supplier's security and risk management practices;
- 3.1.5 verify the Supplier's maintenance of, and compliance with, the Transition Out Plan, as specified in Schedule 4 (**Transition Management**);
- 3.1.6 verify the Supplier's compliance with its obligations relating to business continuity and disaster recovery planning and testing, as specified in the Agreement;
- 3.1.7 identify suspected fraud or material accounting mistakes, however the Department is under no obligation to inform the Supplier of the objective of its investigations;
- 3.1.8 conduct the Department's statutory audits including any audit activities the Department is required to carry out in relation to any ANAO, Privacy Commissioner or Information Commissioner audits;
- 3.1.9 carry out any audit activity required by the Department to enable the Department to meet, or to verify compliance by the Department or the Supplier with any applicable Laws;

- 3.1.10 verify the Supplier's compliance with Commonwealth or Department Policies; and
- 3.1.11 carry out any audit activity reasonably required by the Department to otherwise verify the Supplier's compliance with the provisions of the Agreement,
- collectively, "**Audits**".
- 3.2** The Department will provide reasonable prior notice of any Audit it intends to carry out pursuant to this Schedule 12 (**Audit Access**) provided that in cases of emergency or for one of the following purposes, no prior notice is required (and the Supplier must grant to the Department immediate access and all necessary assistance for):
- 3.2.1 Regulatory Audits or audits required as a direction received from a Commonwealth Minister or an order of the Australian Parliament for which it is not reasonably possible to give full notice;
- 3.2.2 Audits which are required by the Department for reasons of suspected fraud or dishonesty;
- 3.2.3 Audits which are required by the Department to verify the Supplier's compliance with the security requirements set out in the Agreement, including Schedule 3 (**Security**), and security Audits following a suspected security breach;
- 3.2.4 Audits which are required by the Department, where the Department suspects that the Supplier may be in Material Default;
- 3.2.5 "mystery shopper" type Audits to verify the integrity, effectiveness and acceptability of the Services from a Client's perspective; and
- 3.2.6 other Audits, the nature of which genuinely and reasonably requires that no prior or full notice be given to the Supplier.
- 3.3** Where an Audit (with the exception of an Audit for suspected fraud as communicated to the Supplier) will materially impact upon the Supplier's ability to meet the Service Levels, the Parties will agree an appropriate suspension of applicable Service Levels.

4. ACCESS TO THE SUPPLIER'S FACILITIES AND MATERIALS

- 4.1** In connection with any Audit, the Supplier must give the Department access for as long as necessary to those parts of the Supplier Facilities where any Supplier Personnel, Audit Records, Supplier Materials, Supplier Subcontractors, Infrastructure Systems and any other of the Supplier's data, records and systems relating to the fulfilment of the Services Requirements are located.
- 4.2** In connection with any of the Audits specified in Section 3.2, the Supplier must provide the Department, upon request, with full access to the Supplier Personnel. In connection with any other Audit, the Supplier must provide the Department, upon request, with such access to Supplier Personnel as is reasonably necessary.
- 4.3** In connection with any Audit, the Supplier must provide the Department with full access, upon request, for as long as necessary, to the Audit Records and, in addition,

must provide to the Department (without charge) all such assistance and co-operation as is reasonably necessary in connection with any such Audit.

- 4.4 The Department will ensure that in carrying out the Audit, the Department Audit Representative complies with the health and safety and security requirements notified by the Supplier.

5. ACTION ON AUDIT REPORTS

- 5.1 Upon completion of an Audit, the Department Audit Representative (or such other person as the Department may nominate) will then prepare a written report ("**Audit Report**") detailing the findings.

- 5.2 Subject to security classification or other confidentiality restrictions, the Supplier is entitled to receive a copy of those parts of the Audit Reports which are relevant to the Supplier's performance under the Agreement. The Parties will develop, agree and follow procedures for the sharing of Audit Reports.

- 5.3 The Supplier and the Department will meet to review Audit Reports in line with the procedures developed and agreed by the Project Executive Committee. Such meetings will take place on a quarterly basis, save in respect of Audit Reports which require more frequent review, as reasonably requested by the Department.

- 5.4 With respect to any findings by the relevant Audit of any material failure by the Supplier to comply with the requirements of the Agreement including:

5.4.1 applicable Laws;

5.4.2 Commonwealth and the Department Policies;

5.4.3 with respect to the fulfilment of the Services Requirements or the systems, operations or procedures used to deliver the Supplier's Solution; or

5.4.4 a failure by the Supplier to comply with its obligations in the Agreement in respect of information security,

the Supplier will agree with the Department and then implement the appropriate corrective or remedial action, at no cost to the Department.

- 5.5 Without limiting the generality of the foregoing, if, as a result of an Audit, the Department discovers that any systems, procedures, policies or standards used in the fulfilment of the Services Requirements conflict with, interfere with, or do not comply with the Agreement, then the Supplier will modify the same as reasonably required by the Department. The Supplier will take such actions as are necessary to bring it into compliance with the Agreement to the Department's reasonable satisfaction. If there is any dispute as to whether a failure which may be corrected, remedied or otherwise resolved by modifications has occurred, the Department may request the Supplier to implement such change in accordance with the timetable set out in the Audit Report and the Services Requirements will be fulfilled with such change in effect, notwithstanding the existence of a disagreement that may be resolved pursuant to the Dispute Resolution Procedure.

- 5.6 The Supplier must provide, at a minimum, monthly updates to the Department on the implementation of all actions and recommendations made in Audit Reports, and the Parties will meet to review the progress made by the Supplier in implementing such actions and recommendations including rectification reviews required in connection

with the requirements of any regulator, in line with the procedures developed and agreed by the Parties (acting reasonably).

- 5.7 If there is a dispute in relation to any Audit Report or audit findings, the Parties will resolve such dispute in accordance with the Dispute Resolution Procedure.

6. SUPPLIER AUDITS AND RISK REPORTING

- 6.1 During the Term, the Supplier and the Supplier Subcontractors must conduct internal reviews and audits of, or pertaining to, the fulfilment of the Services Requirements in a manner consistent with the audit practices of well-managed operations performing services similar to the Supplier in its fulfilment of the Services Requirements ("**Supplier Audits**"). The Supplier Audits must include the random quality audits carried out pursuant to Schedule 6 (**Service Levels and Service Credits**).

- 6.2 The Supplier must:

6.2.1 inform the Department of the identities of its internal representatives that have responsibility for audit and security;

6.2.2 provide details to the Department of the Supplier's own audit and security programmes including such further details as the Department may reasonably request from time to time in connection with such programmes; and

6.2.3 ensure that its representatives liaise with the Department, regarding the potential for joint working, where practicable, and the development of the necessary procedures to support this aim.

- 6.3 The Supplier must ensure that, as part of the Supplier Audits, a security and risk assessment audit (which must, subject to prior agreement of the Department, include penetration testing of the Supplier's systems) is carried out by an independent third party, on terms and scope acceptable to the Department and at least once per Agreement Year. Where the independent tester's report recommends remedial actions to bring the Supplier into compliance with the security standards required under the Agreement, which do not relate to pre-existing weaknesses inherited from the Department, the Supplier will implement these at its own cost and expense and in accordance with a plan and timetable agreed between the Parties in accordance with the Change Control Procedure.

- 6.4 The Supplier must notify the Department as soon as practicable, and in any event within five (5) Business Days, where any statutory and/or Regulatory Audit is carried out which includes any aspect of the fulfilment of the Services Requirements or is otherwise pertinent to the Agreement.

- 6.5 The Supplier must promptly make available to the Department the results of the Supplier Audit and, in particular, the Supplier must immediately notify the Department of any finding or report concerning any actual or suspected error with respect to amounts charged to the Department under the Agreement or with regard to any significant or material weakness identified in the Supplier's business, operations, systems, procedures or controls or which may otherwise impact on the Supplier's ability to fulfil the Services Requirements in accordance with the Agreement.

- 6.6 The procedures for sharing Audit Reports, to be developed in accordance with Section 5.2, also apply to Supplier Audit reports. Such procedures will also require, subject to applicable Law:

- 6.6.1 that where a report is being prepared by an external auditor for the Supplier, drafts must be submitted to the Department simultaneously with any draft submitted to the Supplier; and
 - 6.6.2 that no report in connection with any Supplier Audit (whether prepared by an external or internal auditor or other person) is issued in final form without the Department's prior approval.
- 6.7 The Supplier and the Department will meet to review any Supplier Audit report promptly and in any event within twenty (20) Business Days after the issuance thereof, and will mutually agree upon the appropriate manner, if any, in which to respond to the changes suggested by the Supplier Audit report. Unless otherwise agreed, such changes will be implemented as described in Section 5.5.

7. ASSISTANCE

- 7.1 The Supplier must promptly and efficiently co-operate with and provide the Department with any and all assistance reasonably required (including installing and operating audit software) in carrying out the Audits.
- 7.2 The Supplier must make available personnel from its internal audit team. Such personnel must liaise with and cooperate with the Department's internal audit representatives in order to assist with the conduct of the Department's Audit activities including, where possible, avoiding duplication of such activities.
- 7.3 Where the Department requests the removal of a particular Supplier internal audit team member for reasons of competence, the Supplier must, as soon as practicable, replace that individual with another suitably qualified member of the Supplier's internal audit team.

8. OVERCHARGING AND COSTS

- 8.1 If any Audit reveals any overcharging of the Service Charges ^{s47C} due to an act or omission of the Supplier the Supplier must credit the overcharge amount directly to the Department ^{s47C} within twenty (20) Business Days after the overcharge notification.
- 8.2 Except as expressly set out in this Section 8, each Party will bear its own costs and expenses incurred in connection with the performance of Audits and otherwise under this Schedule 12 (**Audit Access**).
- 8.3 Without limiting the Department's rights under the Agreement, the Supplier must reimburse (if applicable), and indemnify, the Department in connection with any Audit which uncovers any Material Default by the Supplier of any of its obligations under the Agreement and/or any fraud and/or any overcharging by the Supplier of an amount in excess of one per cent (1%) of the correct Service Charges ^{s47C}

9. DURATION OF AUDIT RIGHTS

- 9.1 The Department may exercise any of its Audit Rights set out in this Schedule 12 (**Audit Access**) during the Term and for a period of seven (7) years afterwards. Thereafter, Audit Rights may only be carried out as long as required by a Law (including for statutory accounting purposes).

SCHEDULE 13
APPLICABLE REQUIREMENTS

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APPLICABLE REQUIREMENTS**1. LAWS****1.1 Laws – General**

1.1.1 The Supplier must comply with all Laws, including any local Laws, which from time to time regulate or affect the Services or the activities to which the Services relate as required by **clause 29** of the **Terms and Conditions**. These may include provisions of the following legislation:

- (a) *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
- (b) Attorney-General's 'Legal Services Directions' as issued by the Attorney General in accordance with the *Judiciary Act 1903*;
- (c) *Archives Act 1983*;
- (d) *Australian Border Force Act 2015*;
- (e) *Public Governance, Performance and Accountability (PGPA) Act 2013*;
- (f) *Freedom of Information Act 1982*;
- (g) *Migration Act 1958*;
- (h) *Privacy Act 1988*;
- (i) *Racial Discrimination Act 1975*;
- (j) *Sex Discrimination Act 1984*;
- (k) *Charter of United Nations Act 1945*
- (l) *Customs Act 1901*;
- (m) *Crimes Act 1914*;
- (n) *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*; and
- (o) *Work Health and Safety Act 2011*.

1.2 Criminal Code

1.2.1 The Supplier acknowledges that:

- (a) any:
 - (i) unauthorised access to, or modification of, data held in a computer, and impairment of electronic communication to or from a computer, with intent to commit a serious offence;
 - (ii) unauthorised access to, or modification of, restricted data;
 - (iii) unauthorised impairment of data held on a computer disk, credit card or another device used to store data by electronic means;
 - (iv) possession or control of data with intent to commit a computer offence; and
 - (v) production, supply or obtaining of data with intent to commit a computer offence,

are offences under Part 10.7 of the Criminal Code, for which there are a range of penalties, including imprisonment. "Data" includes the Department's Data;

- (b) it is an offence under Division 137 of the Criminal Code to give false and misleading information (including omitting any matter or thing without which the information is misleading) or documents to the Commonwealth or its officers or agents for which the penalty is imprisonment for 12 months; and
- (c) the:
 - (i) communication (including permitting unauthorised access)
 - (ii) retention, and
 - (iii) failure to comply with directions in relation to the retention or disposal,

of information, including a document, that has been obtained by a person who has obtained that information by virtue of the Agreement to a person who is not authorised to receive that information is an offence under section 79 of the *Crimes Act* 1914, the maximum penalty for which is 7 years' imprisonment.

1.3 Anti-Terrorism

1.3.1 The Supplier must comply with:

- (a) its obligations under Part 4 of the *Charter of United Nations Act* 1945 and the Charter of United Nations (Dealing with Assets) Regulations 2008, and
- (b) all applicable Laws dealing with the supply and/or export of goods, services and information to foreign nationals or institutions including under the *Customs Act* 1901 and the *Weapons of Mass Destruction (Prevention of Proliferation) Act* 1995.

1.3.2 The Supplier acknowledges that it is an offence to knowingly make any funds or assets available to a person or organisation on the list of persons and entities designated as terrorist, available at http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html

1.3.3 If the Supplier holds assets or funds belonging to a person or organisation on the list of persons and entities designated as terrorists, the Supplier must immediately freeze those assets and the Supplier must immediately notify the Department.

2. WORK HEALTH AND SAFETY

- 2.1 The Department is committed to a strong workplace culture where the health, safety and wellbeing of everyone at the Department are of paramount importance. A healthy and safe workplace is an essential component of creating a productive environment, with the intent to fully and effectively support the business and community outcomes.
- 2.2 The Supplier must ensure that Supplier Personnel and Subcontractors carry out work under the Agreement in a manner which:

- 2.2.1 does not pose any avoidable health or physical safety risk to the Department's Personnel, Supplier Personnel, or any other person; and
- 2.2.2 complies at all times with all applicable occupational health and safety and workplace diversity legislation and any other applicable Laws.
- 2.3 The Supplier must perform its obligations under the Agreement in such a way that:
 - 2.3.1 Commonwealth "worker" (as defined in Section 7(1) of the *Work Health and Safety Act 2011*) are able to participate in any necessary inspections of work in progress and tests and evaluations of the Services; and
 - 2.3.2 the Commonwealth is able to support and to make full use of the Services for the purposes for which they are intended, without the Commonwealth being in breach of any Work Health and Safety statutory requirements which apply to the Services.
- 2.4 The Supplier must deliver, maintain and manage a plan and policy for the promotion of health and safety, including fire protection and first aid relating to the performance of the Services.
- 2.5 The Supplier must notify the Department of any health and safety hazards which may arise in connection with the performance of the Agreement and the Supplier should take immediate and appropriate action in relation to such health and safety hazards. In particular, the Supplier must notify the Department of any health and safety hazards which may exist or arise at any Service Centre and which may affect the Applicants. The Supplier must draw these hazards to the attention of the Applicants, its employees and Supplier Subcontractors or any persons engaged by the Supplier in the performance of the Agreement at the Supplier Facilities and the Supplier must instruct such persons in connection with any necessary associated safety measures.
- 2.6 The Department reserves the right to exclude Supplier Personnel from any of the Department's Facilities on safety grounds.
- 2.7 The Supplier must inform all persons engaged in the performance of the Agreement at the Department's Facilities of all such hazards and must instruct such persons in connection with any necessary associated safety measures.

3. ENVIRONMENTAL ISSUES

3.1 Environment

- 3.1.1 In addition to **Clauses 47.2 to 47.3** of the **Terms and Conditions**, the Supplier acknowledges the:
 - (a) Australian Government guidelines in relation to environmental purchasing (Sustainable Procurement Guide), and its relationship with the Department's value for money assessment of the Services over their life cycle;
 - (b) The Department's commitment to implement and maintain an Environmental Management System (**EMS**) that meets international standards and complies with all relevant Commonwealth and non-Commonwealth environmental legislation, policies, initiatives and regulations to which the Department subscribes; and
 - (c) The Department's obligations to report on its environmental performance and its contribution to Ecologically Sustainable Development under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), which focuses on matters of national environmental significance and streamlines environmental and approval processes and requires the Department to report

environmental activities and the measures taken to minimise the impacts of these activities.

- 3.1.2 Where appropriate, the Supplier agrees to use energy efficient products, products from recycled materials or other environmentally preferable products in its provision of the Services (including packaging for those products).
 - 3.1.3 The Supplier must provide information to the Department in relation to the products the Supplier uses to provide the Services, including how those products are energy efficient, made from recycled materials or are otherwise environmentally preferable upon request by the Department.
 - 3.1.4 The Supplier must comply with all reasonable directions given by the Commonwealth Representative in respect of work practices or use of Assets in order to eliminate or mitigate any condition contrary to published environmental standards which apply to the Department.
- 3.2 Substantiation of Claims
- 3.2.1 In performing Services under the Agreement the Supplier must:
 - (a) substantiate any claims it makes about the impact of the Services on the environment; and
 - (b) comply with *Green Marketing and the Australian Consumer Law* (2011), a publication of the Australian Competition and Consumer Commission.
- 3.3 Hazardous Substances
- 3.3.1 The Supplier must not:
 - (a) use any Hazardous Substance in performing the Services, or
 - (b) introduce or store on any Location any Hazardous Substance, except where:
 - (i) necessary for the performance of the Agreement and with the Department's prior written approval; or
 - (ii) those Hazardous Substances are comprised in the Department's Material.
 - 3.3.2 In respect of each Hazardous Substance which is used in the performance of the Services, the Supplier must:
 - (a) provide full details to the Department of that substance (including location, and protective clothing provided) in the format of a Material Safety Data Sheet complying with "National Code of Practice for the Preparation of Material Safety Data Sheets 2nd Edition" [NOHSC: 2011 (2003)];
 - (b) ensure that all documentation, including that related to operation, maintenance, assembly, shipping and handling, is clearly endorsed to identify the presence and nature of the hazard ;
 - (c) ensure that all goods, Assets and Materials containing that substance bear appropriate labels which clearly identify the nature of the substance, its associated hazards and appropriate safeguards; and

- (d) comply with all Laws which apply in the country of manufacture, on the high seas or within the Commonwealth as they relate to any Hazardous Substance included in any goods, Assets and Materials delivered to the Department as part of the Services.
- 3.3.3 The Supplier must promptly (and no later than five (5) Business Days after discovery) advise the Department if it becomes aware of a non-hazardous substance which could be substituted for a Hazardous Substance without significant detriment to the performance of the Services.
- 3.3.4 The Supplier's performance of the Services must not give rise to the emission of gases, liquids, solids, electromagnetic radiation, heat or noise which could be detrimental to personnel, the environment or the operation of other Assets, except where this is consistent with the end-use and nature of the goods, Assets and Materials supplied as part of the Services and is within normal tolerances acceptable to the community at large.
- 4. RECORDS MANAGEMENT REQUIREMENTS**
- 4.1 To the greatest extent possible and notwithstanding any other requirement in the Agreement the Supplier is to comply with, and assist the Department to comply with, the Department's Records Management Policy.
- 4.2 The Supplier must capture and maintain an audit trail against each Client interaction including:
 - 4.2.1 the Client Enquiry channel;
 - 4.2.2 who handled the enquiry;
 - 4.2.3 the treatment that was applied to each interaction;
 - 4.2.4 where applicable, the Line of Business Systems accessed; and
 - 4.2.5 where provided by the Client:
 - (a) full name;
 - (b) email address;
 - (c) contact numbers; and
 - (d) interaction notes including anecdotal client experience feedback.
- 4.3 The Supplier must make all audit data available to the Department upon request.
- 4.4 If the Supplier is advised by the Department or becomes aware of a 'records disposal freeze or retention notice' then it must not destroy any relevant records until further notice.
- 5. STANDARDS**
- 5.1 The Supplier must provide the Services in accordance with the following standards or such equivalent or higher standard as applicable to the jurisdiction in which the Services are provided:
 - 5.1.1 ISO 9001:2015 - "Quality management systems - Requirements";
 - 5.1.2 ISO/IEC 27002:2013 - "Information technology -- Security techniques -- Code of practice for information security controls";
 - 5.1.3 ISO/IEC 20000-1:2011 "Information technology - Service management";
 - 5.1.4 AS/NZS ISO 31000:2009 "Risk management – Principles and guidelines": and
 - 5.1.5 AS HB167:2006 "Security risk management".

6. PRIVACY PROTECTION

6.1 Without limiting **Clause 30** of the **Terms and Conditions** in the Agreement, the Supplier must:

6.1.1 immediately notify the Department if it becomes aware:

- (a) of a breach of any obligation concerning security, use and disclosure of Personal Information relating to an officer or employee of the Department by Supplier Personnel or Supplier Subcontractors or any other Supplier representative (including employees, officers and agents of an approved subcontractor); or
- (b) that a disclosure of Personal Information may be required by Law;

6.1.2 co-operate with any reasonable request or direction of the Department arising directly from, or in connection with, the exercise of the Privacy Commissioner's powers and functions under the *Privacy Act 1988* or otherwise including (but not limited to) the issuing of any guidelines concerning the handling of Personal Information; and

6.1.3 co-operate with any reasonable request or direction of the Department which is, in the reasonable opinion of the Department, necessary to determine whether the Department is complying with its obligations under **Clause 30** of the **Terms and Conditions** of the Agreement.

6.2 If the Department receives a complaint or allegation of interference with the privacy of an individual by the Supplier, the Department will immediately notify the Supplier of only those details of the complaint necessary to minimise any breach of privacy or prevent further breaches of **Clause 30** of the **Terms and Conditions** of the Agreement.

6.3 If the Supplier receives or becomes aware of a complaint or allegation of interference with the privacy of an individual by the Supplier or one of a Supplier Subcontractor, the Supplier must immediately notify the Department of the nature of the complaint or allegation and release to the Department the Personal Information concerning the complainant.

6.4 If the Department has given or been given notice in accordance with Sections 6.2 or 6.3:

6.4.1 the Supplier must do everything reasonably necessary to enable the Department to properly deal with the complaint or allegation; and

6.4.2 the Department will keep the Supplier informed of the progress of the complaint or allegation as it relates to the actions of the Supplier in connection with the allegation of an interference with the privacy of an individual.

6.5 The Department may decide to pay a reasonable amount to a person as compensation for loss or damage suffered by that person as a result of any breach of **Clause 30** of the **Terms and Conditions** of the Agreement by the Supplier for which the Department would have been liable under the Privacy Act if such breach had been that of the Department.

6.6 The Department will give the Supplier fourteen (14) days' written notice of an intention to proceed in accordance with Section 6.2 which includes an explanation of how that liability or expense was assessed and the Supplier's proposed share of that liability.

7. AUSTRALIAN PUBLIC SERVICE CODE OF CONDUCT

7.1 The Supplier must comply with the following ethical principles and practices:

- 7.1.1 behave honestly and with integrity;
- 7.1.2 act with care and diligence; and
- 7.1.3 treat everyone with respect and courtesy, and without harassment;
- 7.1.4 comply with all applicable Laws;
- 7.1.5 use Commonwealth resources in a proper manner;
- 7.1.6 not provide false or misleading information in response to a request for information that is made by the Department in connection with the Agreement;
- 7.1.7 not make improper use of:
 - (a) inside information;
 - (b) the Supplier's duties, status, power or authority,
 in order to gain, or seek to gain, a benefit or advantage for the Supplier; and
- 7.1.8 at all times behave in a way that upholds the principles and practices set out in this Section 7.1 and the integrity and good reputation of the Department.
- 7.2 In providing the Services the Supplier must comply with the *Commonwealth Fraud Control–Framework*. The Framework aims to reduce the incidence of fraud and reduce the opportunity for fraud against the Commonwealth to occur.
- 8. LOBBYING CODE OF CONDUCT**
 - 8.1 The Lobbying Code of Conduct is intended to promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. Lobbyists and Government representatives are expected to comply with the requirements of the Lobbying Code of Conduct in accordance with their spirit, intention and purpose. A copy of the Lobbying Code of Conduct is available at <http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=contactwithLobbyistsCode>.
 - 8.2 "Government representative" for the purposes of the Lobbying Code of Conduct includes a person engaged as a contractor or consultant by an Australian Government Agency whose staff are employed under the *Public Service Act* 1999.
 - 8.3 In providing the Services the Supplier must, and must ensure that Supplier Personnel will, comply with the Lobbying Code of Conduct and the Australian Public Service Commission (APSC) Circular 2008/4: "Requirements relating to the Lobbying Code of Conduct and post separation contact with Government" where their activities fall within the scope of the Lobbying Code of Conduct.
- 9. FREEDOM OF INFORMATION**
 - 9.1 In this Section 9, 'document' and 'Commonwealth contract' have the same meaning as in the *Freedom of Information Act* 1982 (Cth).
 - 9.2 Where the Department has received a request for access to a document created by, or in the possession of, the Supplier or any Supplier Subcontractor that relates to the provision of Services for the Department under the Agreement (and not to the entry into of the Agreement), the Department may at any time by written notice require the Supplier to provide the document to the Department and the Supplier must, at no additional cost to the Department, promptly comply with the notice.

- 9.3 The Supplier must include in any subcontract entered into on or from the Effective Date relating to the performance of the Agreement provisions that will enable the Supplier to comply with its obligations under this Section 9.

10. INTEGRITY AND PROFESSIONAL STANDARDS

- 10.1 For the purpose of this Section 10, Contracted Persons is defined to include agents, subcontractors, consultants, professional advisers and contracted staff, but does not include employees.
- 10.2 The Supplier acknowledges that it, its employees and Contracted Persons, including Supplier Personnel, are IBP workers.
- 10.3 The Supplier will comply with the ABF Act, and will ensure that its employees and Contracted Persons are aware of and comply with the ABF Act.
- 10.4 The Supplier acknowledges that the ABF Act includes requirements relating to integrity and anti-corruption including:
- 10.4.1 mandatory reporting of serious misconduct, corrupt conduct and criminal activity;
 - 10.4.2 professional standards; and
 - 10.4.3 drug and alcohol testing.
- 10.5 The Supplier agrees to assist and co-operate with the Department in administering the ABF Act to ensure compliance by its employees and Contracted Persons.
- 10.6 The Supplier will incorporate written terms in any agreement that it enters into with Contracted Persons, obliging such Contracted Persons to:
- 10.6.1 comply with the ABF Act, as an IBP worker;
 - 10.6.2 ensure that its employees and Contracted Persons are aware of and comply with the ABF Act, as IBP workers; and
 - 10.6.3 ensure that it has the right to cease the involvement of an employee or Contracted Persons in the performance of the Services, if so requested by the Department.
- 10.7 If the Supplier or its employees or Contracted Persons, including Personnel:
- 10.7.1 breaches this clause;
 - 10.7.2 fails at any time to comply with the ABF Act;
 - 10.7.3 refuses to comply with a requirement to undergo an alcohol screening test;
 - 10.7.4 refuses to comply with a direction to undergo a drug or alcohol test;
 - 10.7.5 exceeds the permissible blood alcohol concentration level specified under the ABF Act;
 - 10.7.6 returns a verified positive prohibited drug test that indicates the presence of a prohibited drug which exceeds the testing cut-off levels specified under the ABF Act;
 - 10.7.7 fails to exercise any right it has to cease the involvement of any of its employees or Contracted Persons in the performance of the Services, if so requested by the Department;
 - 10.7.8 fails to provide assistance when requested by the Department for the purpose of administering the ABF Act as it relates to this Agreement;
- then the Department may, by written notice, in its absolute discretion:

- 10.7.9 require that the Supplier immediately cease the involvement of specified employees or Contracted Persons including Supplier Personnel, in the performance of the Services, including exercising the Department's rights under this Agreement;
- 10.7.10 immediately revoke its approval of a Subcontractor under this Agreement; or
- 10.7.11 immediately terminate this Agreement, whether or not the breach, failure or conduct is capable of being remedied, in accordance with the procedure in this Agreement,
- without liability and at no additional cost to the Department.
- 10.8 If the Supplier's employees or Contracted Persons, including Supplier Personnel, return a presumptive drug test that requires further investigation as it indicates the presence of a prohibited drug which exceeds the testing cut-off levels specified under the ABF Act, then the Department may, by written notice:
- 10.8.1 require that the Supplier suspend the involvement of the employee or Contracted Persons in the performance of the Services for a specified period to enable a confirmatory test or verification test; and
- 10.8.2 require the provision of a suitable replacement for the specified period.
- 10.9 The Department will not be liable for any costs or charges relating to the suspension of any employee or Contracted Persons under this clause, regardless of the results of the confirmatory test or verification test. If the Supplier is unable to provide a suitable replacement for the duration of the suspension, the Department's liability to pay fees under this Agreement ^{s47C} will abate in accordance with the reduction of Services.
- 10.10 This clause will survive the expiration or termination of this Agreement.

ANNEX 13-1

RECORDS MANAGEMENT POLICY

SCHEDULE 14
PERFORMANCE GUARANTEE

CONTENTS

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PERFORMANCE GUARANTEE

This Deed of Performance Guarantee (Performance Guarantee) made at [INSERT LOCATION]

In favour of

The **Commonwealth of Australia** as represented by represented by the Department of Immigration and Border Protection (“**the Department**”) ABN 33 380 054 835 of 6 Chan Street BELCONNEN ACT 2617

By

[INSERT NAME OF PARENT GUARANTOR] whose registered office is at
[INSERT GUARANTOR ADDRESS] (“**the Guarantor**”)

Registered Office:

- A The Department wishes to procure the Services.
- B The Supplier has agreed to provide the Services to the Department under the Agreement.
- C Under the Agreement, the Supplier has agreed to procure from the Guarantor the guarantees and indemnities appearing in this Performance Guarantee. This Performance Guarantee covers all Obligations of the Supplier under the Agreement.
- D In consideration of the Department entering into the Agreement, the Guarantor agrees to give the guarantees and indemnities below in respect of the performance of the Supplier's Obligations under the Agreement on the terms and conditions set out in this Performance Guarantee.

Operative provisions**1 DEFINITIONS AND INTERPRETATION****Definitions****1.1** In this Performance Guarantee:

Agreement means the agreement entered into by the Department and the Supplier for the provision of the Services dated **[Insert Agreement date]**.

Law means:

- (a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject;
- (b) the common law and the law of equity as applicable to a party/the parties from time to time;
- (c) any binding court order, judgement or decree;
- (d) any applicable industry code, policy or standard enforceable by law; or
- (e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any competent regulatory body having jurisdiction over a party or any of that party's assets, resources or business,

in any jurisdiction that is applicable to this Performance Guarantee or the Services, and “Legal” shall be interpreted accordingly.

Obligations means:

- (a) each and all of the obligations of the Supplier under the Agreement; or
- (b) insofar as an Obligation (including an obligation to pay money) under the Agreement is no longer capable of being performed by the Supplier due to the essential nature of such Obligation, such amount as the Supplier may be found liable to pay as damages (in accordance with the liability provisions of the Agreement or at Law) for the failure to discharge such Obligation.

Performance Guarantee means this Deed of Performance Guarantee.

Services means the Services as defined in the Agreement.

Supplier means **[INSERT NAME OF SUPPLIER]**

Interpretation

1.2 In this Performance Guarantee, unless the context otherwise requires:

- (a) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (b) a reference to one gender includes a reference to the other genders and each of them;
- (c) a reference to a person includes a reference to a corporation or firm and vice versa; and
- (d) a reference to the singular denotes the plural and vice versa.

1.3 If any provision of this Performance Guarantee is or becomes unenforceable, illegal, invalid or void, then that provision must be interpreted, so far as possible, to be limited or read down or severed to the extent necessary to make it valid and enforceable and the remaining provisions of this Performance Guarantee will not be affected and will continue in full force and effect.

1.4 For the purpose of this Performance Guarantee, where the Supplier has failed to perform an Obligation, that will be taken to be a breach of the Obligation by the Supplier even if the Supplier has been dissolved or is subject to external administration procedures, including under Chapter 5 of the *Corporations Act 2001* (Cth), or the equivalent legislation in the country of registration of the Supplier.

1.5 Any reference in this Performance Guarantee to the obligations or liabilities of the Guarantor will be construed as a reference to its obligations or liabilities, whether as a guarantor or an indemnifier or both, under this Performance Guarantee. The use of the expression **Guarantor** in this Performance Guarantee is not to be construed as diminishing that party's obligations as an indemnifier. The provisions of this Performance Guarantee which preserve the liability of a party as a guarantor apply, appropriately modified, to any liability which arises whether in regard to that party's guarantee or indemnity under this Performance Guarantee.

2 GUARANTEE AND INDEMNITY

2.1 Subject to **clause** Error! Reference source not found., the Guarantor:

- (a) unconditionally and irrevocably guarantees to the Department that the Supplier will duly and properly perform all of the Obligations; and
- (b) in default of the due and proper performance by the Supplier of any of the Obligations, covenants with the Department to perform the Obligations or cause them to be performed as provided in **clause 5.4**.

2.2 If:

- (a) the Supplier commits any breach of its Obligations, and such breach is not remedied by the Guarantor under this Performance Guarantee and the Agreement is then terminated for default (an "Unremedied Default"); or
- (b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Supplier for any reason (whether or not the Department knew or ought to have known of that reason) or are disclaimed by a liquidator or trustee in bankruptcy, in whole or in part (an "Unenforceability Event"),

the Guarantor as a separate, additional and primary liability irrevocably and unconditionally agrees to indemnify the Department and keep the Department indemnified against losses, damages, costs and expenses (including legal expenses on a solicitor and own client basis) consequent upon or arising out of that Unremedied Default or Unenforceability Event (as the case may be) and pay such amount of losses, damages, costs and expenses directly to the Department on demand.

2.3 The Department will not be required to make any claim or demand on the Supplier or to enforce any right, power or remedy against the Supplier in respect of its Obligations and liabilities under the Agreement before making any claim or demand on the Guarantor under this Performance Guarantee.

2.4 Not used.

2.5 The Guarantor will have the benefit of any defence available to the Supplier under the Agreement.

2.6 The Guarantor agrees to pay the Department:

- (a) any amount payable by it to the Department under this Performance Guarantee when it becomes due for payment; and
- (b) interest on all unpaid amounts, calculated on daily balances at the rate of 4% over the Commonwealth Bank of Australia's indicator interest rate.

2.7 The Guarantor must make payments to the Department under this Performance Guarantee no later than 1:30pm Canberra time on the due date to the account of the Department which the Department designates by notice.

2.8 If a Law requires the Guarantor to withhold or deduct taxes from a payment so that the Department would not actually receive for its own benefit on the due date the full amount provided for under this Performance Guarantee, then:

- (a) the amount payable is increased so that, after that deduction and deductions applicable to additional amounts payable, the Department is entitled to receive as payment under this Performance Guarantee a net amount equal to the full amount it would have been entitled to receive if no withholding or deduction had been required;
- (b) the Guarantor must make the deduction; and
- (c) the Guarantor must pay the full amount deducted to the relevant authority in accordance with applicable Law.

3 CONTINUING GUARANTEE

3.1 The liability of the Guarantor under this Performance Guarantee is absolute and will not be subject to the execution of this Performance Guarantee or any other instrument or document by any person other than the Guarantor, and will not be subject to the performance of any condition precedent or subsequent. The liability of the Guarantor under this Performance Guarantee will not be prejudiced or discharged or in any way

affected by any act omission, matter or thing which, but for this **clause** Error! Reference source not found., **clause** Error! Reference source not found. or **clause** Error! Reference source not found., might release the Guarantor from that liability or reduce that liability of the Guarantor (other than an express release of the Guarantor from all of its liabilities under this Performance Guarantee) including any of the following:

- (a) the winding up or bankruptcy of the Supplier, the Guarantor or any other person; or
- (b) the Agreement or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason, whether past, present or future; or
- (c) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Department or any other party of the Agreement or any Obligation; or
- (d) the transfer, assignment or novation by the Department, the Supplier or the Guarantor of all or any its rights or obligations under the Agreement or this Performance Guarantee; or
- (e) any failure by the Department to disclose to the Guarantor any material or unusual fact or circumstance, event or thing known to, or which ought to have been known by, the Department relating to or affecting the Supplier at any time before or during the currency of any of the Agreement or this Performance Guarantee, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Department was under a duty to disclose that fact, circumstance, event or thing to the Guarantor; or
- (f) any person whether named as a party or not, does not execute the Agreement or the execution of any such document by any person is invalid, forged or irregular in any way; or
- (g) any failure or omission by the Supplier, the Department or any other person to give notice to the Guarantor of any default by the Supplier under the Agreement.

3.2 This Performance Guarantee will continue and remain in full force and effect until the earlier of:

- (a) the performance by the Supplier of the Obligations; or
- (b) subject to **clause 3.3**, the expiration or earlier termination of the Agreement.

3.3 The liability of the Guarantor under this Performance Guarantee will not be prejudiced, discharged or in any way affected by the termination of the Agreement for non-performance of the Obligations.

4 TOTAL LIABILITY

4.1 Other than in respect of liability which arises under **clauses 2.8** or Error! Reference source not found., the total liability of the Guarantor under this Performance Guarantee will not exceed the liability of the Supplier to the Department which arises under or in respect of the Agreement or which would arise if the Agreement remained on foot and was enforceable in every respect against the Supplier. For the avoidance of doubt, the limitations and exclusions of liability in the Agreement in favour of the Supplier, apply equally to the liability of the Guarantor under this Performance Guarantee.

5 THE DEPARTMENT AND SUPPLIER MAY VARY AGREEMENT

- 5.1** The Department and the Supplier may amend or vary the Agreement or agree to any amendment, variation or replacement of any other agreement, contract or arrangements now or in the future in force between the Department and the Supplier without notice to, and without the consent of, the Guarantor (and it will be the obligation of the Supplier to notify the Guarantor of any such amendment, variation or replacement).
- 5.2** Subject to **clause 5.3**, the liability of the Guarantor under this Performance Guarantee will not be prejudiced, discharged or in any way affected by any of the matters referred to in **clause 5.1** (or by any failure on the part of the Supplier to notify the Guarantor of any amendment, variation or replacement affecting the Agreement) and will extend to cover the Agreement, and any amendments or variations to the Agreement whether or not those amendments or variations are substantial or material or impose additional liabilities on or disadvantages the Supplier.
- 5.3** The acceptance by the Department of any amount, or substituted or modified obligation, in partial satisfaction of any of the Obligations of the Supplier to the Department under the Agreement will reduce and discharge the obligations of the Guarantor to the Department under this Performance Guarantee in the same amount and measure.
- 5.4** The Guarantor must, if required by the Department, complete or arrange to complete any of the Obligations of the Supplier which were unfulfilled at the time the Supplier failed to remedy any breach of such Obligations (at the completion of the appropriate notice period under the Agreement to rectify such breach).

6 THE DEPARTMENT MAY GRANT INDULGENCE OR REFRAIN

- 6.1** Subject to **clause 5.3**, the Department may:
- (a) grant any time, waiver or other indulgence or consideration or concession to the Supplier or the Guarantor or make any composition arrangement or compromise with the Supplier; or
 - (b) forebear to require the Supplier to pay any money or to do or refrain from doing any act, matter or thing (whether deliberately, negligently, unreasonably or otherwise) which the Supplier by the Agreement has agreed to pay or do or not to do,
- without affecting the liability of the Guarantor under this Performance Guarantee.
- 6.2** Nothing in this Performance Guarantee or any circumstance arising out of this Performance Guarantee or its performance gives rise to any relationship of agency, partnership or employment between the Department and the Guarantor.

7 WAIVER BY GUARANTOR

- 7.1** The Guarantor waives in favour of the Department, so far as may be necessary to give effect to anything contained or implied in this Performance Guarantee, all rights of subrogation, contribution or marshalling against the Department, the Supplier and any other person or any estate or asset.
- 7.2** If the Supplier makes any arrangement, assignment or composition for the benefit of creditors, becomes bankrupt or goes into liquidation, the Guarantor will not prove in competition with the Department until any Obligation or liability of the Supplier to the Department has been satisfied in full. The Guarantor authorises the Department to prove for all money, which the Guarantor has paid under this Performance Guarantee, and to appropriate any money so received until the Department has received all money due to the Department in respect of the indebtedness or liabilities of the Supplier under or arising out of the Agreement.

7.3 If the Guarantor makes any arrangement, assignment or composition for the benefit of creditors, becomes bankrupt or goes into liquidation, the Department will be entitled to prove for the money guaranteed by this Performance Guarantee and all other money payable under or in connection with this Performance Guarantee.

8 TAXES

8.1 Subject to the terms of the Agreement, the Guarantor will on demand by the Department pay any taxes, including stamp duty and GST on or in connection with this Performance Guarantee.

9 NOTICES

9.1 A notice or other communication in connection with this Performance Guarantee must be in writing, must be given by a method prescribed in **clause 9.2** and must be given to the party to whom it is addressed or directed at the address shown for that party on the front page of this Performance Guarantee.

9.2 Any notice or other communication must be served as follows:

- (a) if the recipient's principal place of business is within Australia - either delivery by a courier service which maintains evidence of receipt and delivery or by hand; or
- (b) if the recipient's place of business is outside Australia - either delivery by an internationally recognised air courier service which records evidence of receipt and delivery or by hand.

9.3 A notice or other communication given under **clause 9.2** is taken to be received:

- (a) if sent by a domestically or internationally recognised courier service, at the time in the location at which such delivery takes place, as shown in the courier's record of delivery; or
- (b) if sent by hand, at the time of actual delivery, as shown by the deliverer's record or testimony.

9.4 If the time of delivery referred to in **clause 9.3** is after the recipient's normal business hours (which, until written notice to the contrary is given by such recipient shall be deemed to be 9.00 a.m. to 5.00 p.m. on a business day in the location of the recipient) the notice, approval, consent or other communication is taken to be received at 9.00 a.m. on the recipient's next business day.

10 CONCLUSIVE CERTIFICATE

10.1 A statement, signed on behalf of the Department by any of its authorised representatives, as to any matter or any amount at the date specified in the statement is conclusive evidence in the absence of manifest error.

11 APPLICABLE LAW

11.1 This Performance Guarantee will be governed by and construed in accordance with the Law for the time being in force in the Australian Capital Territory, and the Guarantor agrees to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in respect of all matters arising under, or in relation to, this Performance Guarantee.

12 ASSIGNMENT

12.1 Where the ultimate ownership of the Supplier is transferred from the Guarantor to another party, the Guarantor may, with the prior written consent of the Department (which may be granted or withheld by the Department in its absolute discretion), novate its obligations under this Performance Guarantee to that other party.

13 COSTS

- 13.1** Except as otherwise provided in this Performance Guarantee, each party must pay its own costs and expenses and taxes (if any) in connection with negotiating, preparing, executing and performing this Performance Guarantee.

14 SEVERANCE

- 14.1** Any provision of this Performance Guarantee which is illegal, void or unenforceable will be ineffective to the extent only of the illegality, voidness or unenforceability without invalidating the remaining provisions of the Performance Guarantee.

Executed as a deed.

Signed for and on behalf of the
Commonwealth of Australia as
represented by the **Department of
Immigration and Border Protection**
by its duly authorised delegate in the
presence of

Name of delegate (print)

Signature of delegate

Name of witness (print)

Signature of witness

Date

Executed by [Insert Parent Guarantor
Name] by its duly authorised
representative in the presence of

Signature
[Insert name]

Signature of witness
[Insert name]

[Insert Position]

[Insert Position]

Date

SCHEDULE 15
AUTHORITY TO ACT FORM

CONTENTS

AUTHORITY TO ACT FORM 1

AUTHORITY TO ACT FORM

I, _____ (**NAME**) who hold the position of _____ (**POSITION**) at _____ (**SUPPLIER NAME**), _____ (**SUPPLIER ADDRESS**),

acknowledge and agree as follows:

1. I am a Designated Agent for the purposes of **clause 3** of the **Terms and Conditions** of the Agreement for the provision of client enquiry and related services between **[INSERT SUPPLIER NAME] (Supplier)** and the Commonwealth of Australia, as represented by the Department of Immigration and Border Protection (**the Department**) (**Agreement**);
2. In my role as a Designated Agent, I will, at all times act:
 - a. in good faith and in the interests of the Department;
 - b. diligently, effectively and to a high professional standard with due care and skill;
 - c. strictly in accordance with:
 - i. the requirements of this Agreement, including Schedule 13 (**Applicable Requirements**), and in particular all Laws, policy and practice requirements relating to the Commonwealth's financial management framework, including Public Governance, Performance and Accountability Act 2013 (Cth), the Public Governance, Performance and Accountability Rule 2014 and the Auditor-General Act 1997 (Cth); and
 - ii. all guidelines and directions that the Department notifies from time to time to the Supplier; and
 - d. where receiving or expending moneys as agent on behalf of the Department or committing the Department to the expenditure of funds, as a fiduciary.

Signed by the Designated Agent:

_____ Dated:

SCHEDULE 16
CONFIDENTIAL INFORMATION

CONTENTS

CONFIDENTIAL INFORMATION.....3

CONFIDENTIAL INFORMATION

DETAILS OF CONFIDENTIAL INFORMATION

1.1 The Parties agree that the information set out in this Schedule 16 is Confidential Information and confidentiality should be retained for the period specified below.

1.1.1 Department Confidential Information

Department Confidential Information	Reasons for Confidentiality	Period of Confidentiality (refer to clause 27)
Department Data	Disclosure would adversely impact on the Department's operations. Department Data is sensitive in operational nature for the continuance of the Department's objectives.	Entire Term of the Agreement

1.1.2 For the purposes of the confidentiality obligations in this Agreement, Client Data must be protected as if it were Department Material.

1.1.3 Supplier's Confidential Information

Supplier Confidential Information	Reasons for Confidentiality	Period of Confidentiality (refer to clause 27)

SCHEDULE 17
CONFIDENTIALITY UNDERTAKING

CONTENTS

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6. INDEMNITY 4

7. SURVIVAL 4

8. GOVERNING LAW 5

9. INTERPRETATION 5

Deed of undertaking in relation to Personal Information and Confidential Information**Deed Poll made at [INSERT LOCATION] on [INSERT DATE]****Parties****By [INSERT SUPPLIER NAME]****[INSERT SUPPLIER ADDRESS]****("Confidant")****In Favour Of COMMONWEALTH OF AUSTRALIA**, as represented by theDepartment of Immigration and Border Protection ("**the Department**")

ABN 33 380 054 835

of 6 Chan Street BELCONNEN ACT 2617 Australia

Operative provisions**1. GENERAL**

- (a) **[INSERT SUPPLIER NAME]** ("**Supplier**") and the Department are parties to an Agreement for the provision of Client Enquiry Services (the "**Agreement**") dated **[INSERT DATE]**.
- (b) The Confidant acknowledges that in the course of performing duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement), the Confidant may have access to Personal Information and / or Department Confidential Information.
- (c) The Confidant agrees to treat all Personal Information (including in Client Data) and Department Confidential Information with the utmost care and to protect that information at all times in accordance with all security and privacy requirements imposed by this Confidentiality Deed.

2. PRIVACY AND PERSONAL INFORMATION

- (a) The Confidant acknowledges and agrees that it may not access, use, disclose, publish, communicate or retain, or otherwise deal in any way with, Personal Information except in the course of performing its duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement).
- (b) The Confidant acknowledges and agrees with respect to all Personal Information acquired by the Confidant in the performance of its duties in relation to the Agreement or a subcontract to the Agreement:
 - (i) to comply with the provisions of the *Privacy Act 1988* (Cth) ("**Privacy Act**"), including the Australian Privacy Principles, as if the Confidant were an "**Agency**" within the definition of that Act;

- (ii) that failure by the Confidant to comply with the obligations under Privacy Act in accordance with **clause 2(b)(i)** may result in the Department taking action against the Confidant (including, without limitation, disciplinary action);
- (iii) to cooperate with any reasonable demands or enquiries made by the Commonwealth Privacy Commissioner;
- (c) The Confidant agrees that its obligations under this Confidentiality Deed are in addition to, and do not restrict, any obligations it may have under:
 - (i) the Privacy Act; or
 - (ii) any privacy codes or privacy principles contained in, authorised by or registered under any statute, regulation, by-law, ordinance or subordinate legislation,

3. THE DEPARTMENT CONFIDENTIAL INFORMATION

- (a) The Confidant must not:
 - (i) disclose Department Confidential Information and Client Data;
 - (ii) reproduce any document containing, or referring to, any Department Confidential Information and Client Data nor allow any other person to use or reproduce any such document; or
 - (iii) use Department Confidential Information and Client Data,

except as strictly required for the purpose of providing the Services under the Agreement or a subcontract under the Agreement.
- (b) The Confidant must take all reasonable steps to ensure that Department Confidential Information and Client Data, and all documents containing, or referring to, any Departmental Confidential Information and Client Data, are protected at all times from any unauthorised use, copying, disclosure or access.

4. DELIVERY UP OF DOCUMENTS

- (a) In this **clause 4**, "**documents**" includes any form of storage of information, whether visible to the eye or not.
- (b) The Confidant must:
 - (i) immediately on request of the Department or a person authorised by the Department (without needing to produce the demand in writing) deliver up to the Department:
 - A. all of the Personal Information or Department Confidential Information;
 - B. all alterations, modifications, developments and enhancements to, copies of, extracts from or notes on, Department Confidential Information and Personal Information in whatever form; and

- C. all materials related to or in any way associated with Department Confidential Information and Personal Information, in the Confidant's possession, power or control; or
 - (ii) immediately on the request of the Department or a person authorised by the Department:
 - A. destroy the documents mentioned in clause 4(b)(i) and in the case of computer data, this must be done by a method of erasing it from the media on which it is stored so that it cannot in any way be recovered, reconstructed or reconstituted; or
 - B. otherwise deal with the document mentioned in clause 4(b)(i), as the Department directs,

and the Confidant will then promptly certify in writing to the Department that all of the documents mentioned in clause 4(b)(i) have been delivered up, destroyed or dealt with as directed.
- (c) If the Department makes a demand under this clause 4, and the Confidant has placed documents containing the Personal Information or Department Confidential Information, or is aware that documents containing the Personal Information or Department Confidential Information are, are beyond his or her possession or control, then the Confidant must provide full details of where the documents containing the Personal Information or Department Confidential Information are, and the identity of the person in whose custody or control they lie.
- (d) The Confidant acknowledges that the Department may take legal proceedings against the Confidant if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

5. SECURITY

The Confidant will:

- (a) give the Department all reasonable assistance in connection with any security checks the Department wishes to make of the Confidant and its background (including by providing information usually requested in such circumstances);
- (b) maintain proper and secure custody of all Department Confidential Information and Personal Information which is in its possession or under its control;
- (c) use its best endeavours to prevent the use or disclosure of the Department Confidential Information or Personal Information by third parties contrary to this Deed;
- (d) immediately notify the Department in writing of any suspected, expected or actual unauthorised use, copying or disclosure of the Confidential Information or Personal Information contrary to this Deed; and
- (e) give the Department all reasonable assistance in connection with any action or proceeding which the Department may institute against any

person relating to any unauthorised use, copying or disclosure of the Department Confidential Information or Personal Information, and with any investigation the Department may initiate into any suspected, expected or actual unauthorised use, copying or disclosure of the Department Confidential Information or Personal Information.

6. CONFLICT OF INTEREST

The Confidant warrants that no conflict of interest exists or is likely to arise in the course of providing the Services and that it will not permit any situation to arise or engage in any activity during the provision of the Services which may result in a conflict of interest.

7. CRIMINAL LIABILITY

The Confidant acknowledges that:

- (a) section 3(1) of the *Crimes Act 1914* (Cth) states that the term "Commonwealth officer" includes, for the purpose of section 70 of that Act, a person who "performs services for or on behalf of the Commonwealth";
- (b) the publication or communication by a Commonwealth officer of any fact or document which has come to its knowledge or into the person's possession or custody by virtue of the person's being a Commonwealth officer (other than to a person to whom the Commonwealth officer is authorised to publish or disclose the fact or document) may be an offence under section 70 or 79 of the *Crimes Act 1914* (Cth), punishment for which may be a maximum of two (2) (section 70) to seven (7) (section 79) years imprisonment;
- (c) any unauthorised access, alteration, removal, addition, possession, control, supply or impediment to the access, reliability, security or operation of information held in any computer (or, in some cases, any storage device) in the course of performing duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement) may be an offence under Part 10.7 of the *Criminal Code Act 1995* (Cth) of which there are a range of penalties, including a maximum of 10 years imprisonment;
- (d) it is an offence under Division 137 of the *Criminal Code Act 1995* (Cth) to knowingly give false and misleading information (in a material particular) to the Commonwealth or its officers or agents; and
- (e) it is aware of the effect of Part 6 of the *Australian Border Force Act 2015* (Cth) dealing with secrecy and disclosure of protected information.

8. INDEMNITY

The Confidant indemnifies the Department against any claim or Loss incurred by the Department which is caused or contributed to by the Confidant's failure to comply with this Confidentiality Deed.

9. SURVIVAL

The Confidant acknowledges and agrees that this Confidentiality Deed survives the expiry or termination of this Confidentiality Deed.

10. GOVERNING LAW

This Confidentiality Deed is governed by, and construed in all respects in accordance with, the Law of the Australian Capital Territory, Australia and the Confidant agrees to submit to the non-exclusive jurisdiction of the Courts of Australian Capital Territory, Australia in respect of all matters arising under, or in relation to, this Confidentiality Deed.

11. INTERPRETATION

In the Agreement unless the contrary intention appears, capitalised terms have the meaning set out in this **clause 9**.

"Client Data" means information about any Client, either provided by the Client during the Enquiry Process or already held by the Department or the Supplier.

"Confidentiality Deed" means this Deed of undertaking in relation to Personal Information and Confidential Information made by the Confidant in favour of the Department.

"Department Confidential Information" means information that:

- (a) is by its nature confidential;
- (b) is designated by the Department as confidential (and this includes Department Data;
- (c) the Supplier knows or ought to know is confidential;

and includes to the extent that it is confidential:

- (d) information comprised in or relating to any of the Department's Intellectual Property Rights;
- (e) information provided by the Department and incorporated into any training materials in relation to the Supplies;

but does not include information which:

- (f) is or becomes public knowledge other than by breach of this Confidentiality Deed or the Agreement, or any confidentiality obligation or the *Privacy Act* 1988 (Cth); or
- (g) has been independently developed or acquired by the Supplier as established by written evidence;

"Department Data" means all data and written information relating to the Department, Clients and/or any other Commonwealth Department which is provided to or created by or on behalf of the Supplier in the course of fulfilling the Services Requirements, including data or information about any of Departmental operations, facilities, personnel, assets, products, programs, and the Services Requirements. Department Data includes Department Material.

"Department Material" means any Material, the Intellectual Property Rights in which are owned by the Department or any Australian Government Department, which is used to provide, or which forms part of, the Services Requirements, and

shall include all Modification to such Material. Department Material includes Departmental Data.

"Intellectual Property Rights" includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"Loss" means all directly incurred losses, liabilities, damages, awards, orders, decisions and Claims (including, in the case of the Department, the directly incurred losses, liabilities, damages and Claims of Services Recipients and including, in the case of the Supplier, the directly incurred losses, liabilities, damages and Claims of the Material Subcontractors), and all related costs, expenses and payments made to third parties (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; and includes

- (h) Department Data, relating to individuals;
- (i) Client Data; and

"Privacy Act" means the *Privacy Act* 1988 (Cth).

Executed as a Deed Poll

SIGNED, SEALED AND DELIVERED by:

Signature of Confidant

Name of Confidant

In the presence of:

Signature of witness

Name

Attachment E –Industry Briefing Registration Form

**Australian Government**

Department of Immigration and Border Protection

REQUEST FOR TENDER
For the provision of Innovative Client Enquiry Services
DIBP RFT 11/16

Name of Tenderer: _____**ACN/ABN:** _____**Registered Business Address:**

State: _____ **Postcode:** _____**Contact Name:** _____**Telephone:** _____**Email:** _____

REGISTRATION INFORMATION

1. Registration Form

- 1.1. This Registration Form must be used by Tenderers to apply to register to attend an industry briefing; for the Provision of Innovative Client Enquiry Services Request for Tender (RFT) 11/16.
- 1.2. Tenderers must submit a properly completed Registration for Industry Briefing Form at Appendix A (**Registration Document**) prior to the Industry Briefing registration closing time.

2. How to submit documents

- 2.1. The Registration Document must be submitted by scanning the completed document and sending it by email to: ces.procurement@border.gov.au.
- 2.2. Tenderers that do not submit the Registration Document in accordance with the requirements of this clause 2 will not be provided with access to the industry briefing.
- 2.3. Tenderers must complete the following to receive access:
 - a) whether or not they will be attending the industry briefing (in Table 1 of Appendix A); and
 - b) if they will be attending the industry briefing, the names, positions and email addresses of all attendees for the industry briefing (in Table 2 of Appendix A).

3. Provision of Documentation

- 3.1. Documentation on the industry briefing will be sent to the email address listed on the cover page of this Industry Brief Registration Form to those Tenderers that have submitted the Registration Document that complies with the requirements of clause 2.
- 3.2. Tenderers are advised that it may take approximately one (1) Business Day after submission of the Registration Document for the details about accessing the industry brief to be sent out to the Tenderer.

4. Questions regarding Registration Documents

- 4.1. Tenderers that have any questions about the proper completion of the Registration Document should email the Contact Officer at ces.procurement@border.gov.au.
- 4.2. Tenderers should note that a response may take a minimum of one (1) Business Day.

5. Checklist for Tenderers

Item	Task	Completed
1.	Complete details on the Industry Briefing Form (Appendix A) as detailed in clause 2.	<input type="checkbox"/>
2.	Scan and email Tender Registration Document to the Contact Officer at: ces.procurement@border.gov.au .	<input type="checkbox"/>

Appendix A

REGISTRATION FORM – Industry Briefing**1. Industry Briefing registration**

- 1.1. In accordance with Part 2, clause **Error! Reference source not found.** of the RFT Terms and Conditions, Tenderers may register to attend the industry briefing.
- 1.2. The industry briefing will be held in Canberra as detailed in Part 1 of the RFT.
- 1.3. Tenderers may nominate a maximum of five (5) personnel to attend the industry briefing.
- 1.4. Participation at the industry briefing is not a Condition for Participation.
- 1.5. Tenderers are required to make their own travel and accommodation arrangements to attend the industry briefing.
- 1.6. Tenderers should indicate in Table 1 below, whether or not they will be attending an industry briefing. All Tenderers that wish to attend the industry briefing must pre-register by completing the relevant parts of Table 2 of this Registration for Industry Briefing Form and emailing the completed document to: ces.procurement@border.gov.au prior to the Industry Briefing closing time as detailed in Part 1 of the RFT.
- 1.7. The Department will then confirm the Tenderer's attendance at the industry briefing and provide the industry briefing arrangements.
- 1.8. The presentation provided at the industry briefing along with transcript of any questions and answers arising from the industry briefing will be published on AusTender following the industry briefing for the information of all Registered Tenderers.
- 1.9. Any questions asked at the industry briefing may be taken on notice and answered in the form of an addendum to the published RFT documentation.
- 1.10. For further details and conditions in relation to the industry briefing, Tenderers should refer to clause **Error! Reference source not found.** of Part 2 of the RFT Terms and Conditions.

Table 1 – Confirmation of Attendance

Attendance Options	Option (select an option)
Our organisation will be nominating officers to attend the industry briefing	<input type="checkbox"/>
Our organisation will not be nominating officers to attend the scheduled industry briefing	<input type="checkbox"/>

Table 2 – Attendee Details

No	Name of Attendee	Position	Email Address
1			
2			
3			
4			
5			

RFT 11/16 - Attachment F - Tender Response Forms - Version 2

CHECKLIST

Note to Tenderers: This checklist is provided as guidance only for you to confirm that you have enclosed all relevant Material in your Tender.

Tender Lodgement

Subject	Item to be checked	Checked
Tender Presentation	Have the correct number of copies in the correct format been uploaded to AusTender?	<input type="checkbox"/> yes <input type="checkbox"/> no
	Have all Tenderer Forms been included in the Tender?	<input type="checkbox"/> yes <input type="checkbox"/> no

Compliance with mandatory requirements

Subject	To be Provided	Compliance
Minimum Content and Format Requirements (refer to Part 1 of the RFT)	1. The Tenderer must Tender for all the Services in Attachment B (Statement of Requirement). No Tenders for only part of the Services will be allowed.	<input type="checkbox"/> yes <input type="checkbox"/> no
	2. The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in Form 2 of Attachment F (Tenderer Response Forms).	<input type="checkbox"/> yes <input type="checkbox"/> no
	3. The Tenderer must comply with AusTender lodgement requirements and procedures.	<input type="checkbox"/> yes <input type="checkbox"/> no
	4. Measurements in the Tender must be expressed in Australian legal units of measurement.	<input type="checkbox"/> yes <input type="checkbox"/> no
Conditions for Participation (refer to Part 1 of the RFT)	1. The Tenderer must submit the Tender by the Closing Time.	<input type="checkbox"/> yes <input type="checkbox"/> no
	2. The Tenderer must be financially and commercially viable to perform the Services (please see Form 7 (Details of financial viability and commercial viability of Tenderer) in Attachment F (Tenderer Response Forms)	<input type="checkbox"/> yes <input type="checkbox"/> no
	3. The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim. [Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]	<input type="checkbox"/> yes <input type="checkbox"/> no

RFT 11/16 - Attachment F - Tender Response Forms - Version 2

Subject	To be Provided	Compliance
	<p>4. The Tenderer, its personnel, and any Subcontractors proposed in the Tender must not, at the Tender Closing Time, be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth).</p> <p>[Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]</p>	<input type="checkbox"/> yes <input type="checkbox"/> no
	<p>5. The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the Consolidated list referred to in Regulation 40 of the <i>Charter of United Nations (Dealing with Assets) Regulations 2008</i> (Cth).</p> <p>[Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]</p>	<input type="checkbox"/> yes <input type="checkbox"/> no

RFT 11/16 - Attachment F - Tender Response Forms - Version 2

Other information/documentation to be lodged

Subject	To be Provided	Reference	Compliance
Tenderer's and Subcontractors information	A Completed Tenderer and Subcontractor Details Form.	Form 1	<input type="checkbox"/> yes <input type="checkbox"/> no
Tenderer Declaration	Completed Tenderer Declaration Form.	Form 2	<input type="checkbox"/> yes <input type="checkbox"/> no
Executive Summary	An executive summary of the Tender in less than two (2) A4 pages and 500 words.	Form 3	<input type="checkbox"/> yes <input type="checkbox"/> no
Response to Evaluation Criteria	Completed Tenderer's response to Evaluation Criteria.	Forms 4A-4D	<input type="checkbox"/> yes <input type="checkbox"/> no
Pricing Response	Completed Pricing Response (to be submitted separately from the Tenderer's response to the Evaluation Criteria).	Form 5	<input type="checkbox"/> yes <input type="checkbox"/> no
Confidential Information	List of information that the Tenderer requests to be treated as confidential following the award of a Deed, if any, specifying the information and giving reasons why it is necessary to keep the information confidential.	Form 6	<input type="checkbox"/> yes <input type="checkbox"/> no
Financial viability and commercial viability of the Tenderer	Evidence of financial viability and commercial viability of the Tenderer.	Form 7	<input type="checkbox"/> yes <input type="checkbox"/> no
Financial viability and commercial viability of Key Subcontractors	Evidence of financial viability and commercial viability of the Key Subcontractors.	Form 8	<input type="checkbox"/> yes <input type="checkbox"/> no
Statement of Non-Compliance	List of any partial compliance or non-compliance with any clauses of this RFT (including Attachment B (Statement of Requirement) and Attachment D (Draft Agreement) and its various Schedules stating reasons. List of any Direct Competitors.	Form 9	<input type="checkbox"/> yes <input type="checkbox"/> no
Indigenous Procurement Policy	Tenderer's Indigenous Procurement Policy response.	Form 10	<input type="checkbox"/> yes <input type="checkbox"/> no
Risk Management Plan	A draft Risk Management Plan.	Form 11	<input type="checkbox"/> yes <input type="checkbox"/> no
Implementation Plans	A draft Transition In Plan. s47C A draft Transition Out Plan.	Form 12	<input type="checkbox"/> yes <input type="checkbox"/> no
Quality Management Plan	A draft Quality Management Plan.	Form 13	<input type="checkbox"/> yes <input type="checkbox"/> no

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Subject	To be Provided	Reference	Compliance
Security Risk Management Plan	A draft Security Risk Management Plan.	Form 14	<input type="checkbox"/> yes <input type="checkbox"/> no
Enquiry Handling Operations Plan	A draft Enquiry Handling Operations Plan.	Form 15	<input type="checkbox"/> yes <input type="checkbox"/> no
Business Continuity Plan	A draft Business Continuity Plan.	Form 16	<input type="checkbox"/> yes <input type="checkbox"/> no
Project Management Plan	A draft Project Management Plan.	Form 17	<input type="checkbox"/> yes <input type="checkbox"/> no
Training Plan	A draft Training Plan.	Form 18	<input type="checkbox"/> yes <input type="checkbox"/> no
IT Operations Plan	A draft IT Operations Plan.	Form 19	<input type="checkbox"/> yes <input type="checkbox"/> no
Resource Plan	A draft Resource Plan.	Form 20	<input type="checkbox"/> yes <input type="checkbox"/> no
Stakeholder Engagement Plan	A draft Stakeholder Engagement Plan.	Form 21	<input type="checkbox"/> yes <input type="checkbox"/> no
Policies and Procedures Manual	A draft Policies and Procedures Manual	Form 22	<input type="checkbox"/> yes <input type="checkbox"/> no
Intellectual Property Register	A list of any intellectual property relevant to the Services.	Form 23	<input type="checkbox"/> yes <input type="checkbox"/> no
Sources of Assistance	A list of any individuals and organisations who have informed the preparation of the Tender.	Form 24	<input type="checkbox"/> yes <input type="checkbox"/> no
RFT Questions Form	All enquiries to the Department in connection with the RFT should be made using this form.	Form 25	<input type="checkbox"/> yes <input type="checkbox"/> no
Contents	Contents providing sufficient indexing of the Tender.	To be provided separately by Tenderer	<input type="checkbox"/> yes <input type="checkbox"/> no

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Form 1: Tenderer and Subcontractor Details

TENDERER DETAILS

The Tenderer should provide all the information requested in the following table in the Tenderer response section below.

Note to Tenderers: If the Tenderer is part of the consortium or corporate group the table below should include the details of the entity nominated to be the prime supplier to the Agreement.

Tenderer details				
Business or trading name				
Full legal name of Tenderer				
Entity type (e.g. company, sole trader, incorporated association, statutory authority, partnership, trustee on behalf of a trust or other (as specified))				
ABN (if applicable)				
Is the Tenderer registered for GST?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
ACN or ARBN (if applicable)				
Details of principal place of business / head office (including street address, telephone and fax number)				
Details of registered office				
Address for notices (if same as 'registered office' above, please write 'as above')				
Date and place of incorporation or registration of business (if applicable)				
Tenderer's business internet address				
Is the Tenderer a Large Business, Small to Medium Enterprise or Small Business?				

Note to Tenderers: Tenderer to provide details of the Tenderer's representative during the RFT Process in the table below.

Nominated Contact details	
Surname	
First name	
Position	

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Nominated Contact details	
Telephone number	
Facsimile number	
Mobile phone number	
Email address	
Postal address	

Secondary Contact details	
Surname	
First name	
Position	
Telephone number	
Facsimile number	
Mobile phone number	
Email address	
Postal address	

REFEREE DETAILS

The Tenderer should provide three (3) referees, including a primary contact for the referee, a description of the goods and/or services provided to the referee and an indication of whether there is a current agreement in place or when it ceased. Where possible, referees should be from entities where the Tenderer has provided goods and/or services of a similar description, volume or value to the Services described in **Attachment B** (Statement of Requirement) to this RFT.

Referee Contact details	
Surname	
First name	
Position	
Telephone number	
Mobile phone number	
Email address	

Tenderer Response:

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PROPOSED SUBCONTRACTOR DETAILS

The Tenderer should complete the following table for **each** nominated Subcontractor (if any).

The Tenderer should note that in accordance with paragraph 7.19 of the *Commonwealth Procurement Rules* the names of Subcontractors may be publicly disclosed. Tenderer's must inform relevant Subcontractors that the Subcontractor's participation in fulfilling the Agreement (if any) may be publically disclosed and obtain their consent to any such disclosure.

Note to Tenderers: the Tenderer will be required to provide details of the financial and commercial viability of Key Subcontractors (see Form 8 of Attachment F (Tender Response Forms) of this RFT).

Subcontractor 1	
Is the proposed Subcontractor a Key Subcontractor?	<input type="checkbox"/> yes <input type="checkbox"/> no
Business or trading name	
Full legal name of legal entity	
Entity type (e.g. company, sole trader, other (as specified))	
ABN	
ACN or ARBN (if applicable)	
Details of principal place of business / head office (including street address, telephone and fax number)	
Details of the part(s) of the Services which are proposed to be delivered by the Subcontractor and summary of their responsibilities	

If Subcontractors have been nominated, the Tenderer should provide a minimum of two (2) referees of organisations that the Subcontractor has provided similar products and services for, together with their contact details.

Referee Contact details	
Surname	
First name	
Position	
Telephone number	
Mobile phone number	
Email address	

Tenderer Response:

If a proposed subcontractor is a Small to Medium Enterprise (**SME**) or Indigenous organisation, the Tenderer should specify the organisation name, the percentage of involvement and respective dollar value of SME or Indigenous organisation participation, if any, for the provisions of the Services that the respective Subcontractor is to undertake.

Subcontractor 1	
Subcontractor name	
ABN	
ACN or ARBN (if applicable)	
Percentage of involvement	
Value of participation	

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Form 2: Tenderer Declaration

TENDERER DECLARATION

The Tenderer must provide a completed Tenderer Declaration in the form of below. This is a Minimum Content and Format Requirement.

The Tenderer must complete, sign and scan the Deed Poll set out below and submit the Deed Poll as part of its Tender. Submission of an executed Tenderer's Declaration substantially in the form set out below is a Minimum Content and Format Requirement (see **Part 1** of the RFT).

DEED POLL MADE AT **ON**

By **[Insert name of Representative executing the Deed Poll]** of **[Insert address of Representative executing the Deed Poll]** (Representative), on behalf of **[Insert name, ACN and ABN and registered office or other address of Tenderer]** (the Tenderer)

In favour of **Commonwealth of Australia** represented by the Department of Immigration and Border Protection
 ABN 66 015 286 036 of 6 Chan Street, Belconnen, ACT, 2617 (**'the Department'** or **'DIBP'**)

BACKGROUND

- A. The Department has released Request for Tender 11/16 (**RFT**) for the provision of Client Enquiry Services.
- B. The Tenderer seeks to participate in the RFT Process.

OPERATIVE PROVISIONS

1. Preamble

- 1.1 The Representative holds the position of **[managing director or insert other title]** of the Tenderer and is duly authorised to execute this Deed Poll on the Tenderer's behalf.
- 1.2 The Representative executes this Deed Poll on behalf of the Tenderer.
- 1.3 By this Deed Poll, the Tenderer expresses its interest to participate in the procurement process for the provision of the Services as described in the RFT.

2. Definitions

- 2.1 In this Deed Poll, words and phrases have the same meaning as when used in the RFT and in addition:
 - (a) **"Commonwealth"** means the Commonwealth of Australia;
 - (b) **"Deed Poll"** means this deed poll;

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- (c) **"DIBP" or "the Department"** means the Department of Immigration and Border Protection;
- (d) **"Related Body Corporate"** has the meaning given in the Corporations Act 2001 (Cth);
- (e) **"Representative"** means the person executing, and duly authorised to execute, this Deed Poll on behalf of the Tenderer and on his or her own behalf;
- (f) **"RFT"** has the meaning given in Recital A to this Deed Poll;
- (g) **"contractual arrangement"** means an agreement in the form of Attachment D (Draft Agreement) to the RFT;
- (h) **"Tender"** means the response lodged by the Tenderer in connection with the RFT; and
- (i) **"Tenderer"** means **[insert name, ACN and ABN and registered office or other address of the Tenderer]**, and in this Deed Poll includes the Representative.

3. Interpretation

3.1 In this Deed Poll:

- (a) headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:
- (b) a reference to legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (c) a reference to a party in this Deed Poll includes that party's executors, administrators, successors and, except in the case of the assignor, that party's permitted assigns or permitted substitutes, including persons taking by way of novation;
- (d) a reference to a part, clause, schedule, exhibit, attachment or annexure is a reference to a part, clause, schedule, exhibit, attachment or annexure of this Deed Poll and a reference to this Deed Poll includes all schedules, exhibits, attachments and annexures to it;
- (e) a reference to a document or agreement (including this Deed Poll), or a provision of a document or agreement, is to that document, agreement, or a provision as amended, supplemented, varied, replaced, ratified or novated from time to time;
- (f) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity;
- (g) a single word includes the plural and vice versa, and a word indicating a gender includes every other gender;

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- (h) if a term, word or phrase is defined, another part of speech or grammatical form of that term, word or phrase has a corresponding meaning;
- (i) a reference to a matter being to the knowledge of a person means that the matter is the best of the knowledge and belief of that person after proper inquiry including inquiry which a reasonable person would be prompted to make by reason of knowledge of a fact;
- (j) a reference to proper enquiry includes enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact; and
- (k) the word "includes" in any form is not a word of limitation.

4. Offer and Change of Circumstance

4.1 The Tenderer:

- (a) offers to supply the Services described in the Statement of Requirement on the conditions set out in the RFT at the prices contained in its Tender;
- (b) agrees to participate in the RFT Process in accordance with the RFT; and
- (c) declares that all information in its Tender is true and correct in every respect.

4.2 To the best of the Tenderer's knowledge and belief after having made proper enquiry, the Tender is accurate and not misleading. The Tenderer acknowledges that if it is found to have made false or misleading claims or statements, or to have used confidential information, or received improper assistance, except in accordance with the RFT, the Department may reject at any time any Tender lodged by or on behalf of the Tenderer.

4.3 The Tenderer agrees that:

- (a) its Tender remains valid and open for acceptance by the Department for twelve (12) months commencing on and from the Closing Time;
- (b) its Tender may be accepted by the Department at any time before the expiration of that period or as agreed between the Tenderer and the Department;
- (c) its Tender will not be or be deemed to be accepted except as specified in the RFT;
- (d) it will notify the Department promptly of any change, after submission of its Tender, to the basis upon which it will have access to the necessary skills or resources, or corporate or financial backing, to supply the Services; and
- (e) that the Department is not bound to accept the lowest priced or any Tender.

- 4.4 Where a change would alter any of the information (including, without limitation, the corporate structure, ownership structure, or the basis upon which the Tenderer will have access to the necessary skills, resources or corporate and financial backing to provide the Services) or assurances that the Tenderer has given in its Tender, the Tenderer undertakes to promptly to notify the Department in writing and:
- (a) identify with specificity (including all relevant page, section, clause, schedule, exhibit and other like references to its Tender, and any other material and information provided to the Department) all such information and assurances; and
 - (b) state in detail the alterations to such information and assurances required by such change.

5. Tenderer's conduct

- 5.1 The Tenderer represents that to the best of its knowledge and belief after having made proper enquiry:
- (a) it has not made any false declarations in respect of any current or past dealings with the Department or any other Agency including in any procurement process or in any contract for goods or services;
 - (b) it has had no significant deficiency in the performance of any substantive requirement or obligation under any prior contract with the Department or any other Agency which would materially adversely affect the Tenderer's ability to provide the Services as required;
 - (c) it has the skills and resources (including, without limitation, corporate and financial resources), or will be able to obtain such skills and resources, likely to be required to properly provide the Services in accordance with the Statement of Requirement;
 - (d) the Tender does not contain any false or misleading claim or statement;
 - (e) the Tender has been compiled without the Tenderer:
 - (i) engaging in misleading or deceptive conduct in relation to the tender or the RFT Process;
 - (ii) improperly obtaining Confidential Information; or
 - (iii) receiving improper assistance from any existing or former:
 - A. officer or employee of the Department; or
 - B. consultant, adviser or contractor to the Department;
 - (iv) engaging in any collusive bidding, anti-competitive conduct, unlawful, unethical or other similar conduct with any other Tenderer or any other person in connection with the preparation of their Tender or the RFT Process;
 - (v) attempting to solicit information from or to improperly influence any officer, employee or agent of the Department or violate any

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applicable Laws or Commonwealth policies regarding the offering
of inducements in connection with the RFT Process;

- (vi) approach any officer or employee of the Department other than in the manner set out in the RFT;
 - (vii) otherwise acting in an unethical or improper manner or contrary to any Law.
- 5.2 The Tenderer warrants that it has not attempted and will not attempt, through its Personnel or Subcontractor, to influence improperly any DIBP Personnel in connection with the assessment of the Tender.
- 5.3 The Tenderer warrants that it has complied with all relevant Laws and with Commonwealth policy, in preparing and lodging its Tender and in taking part in the RFT Process.
- 5.4 The Tenderer warrants that neither it, nor any Tenderer Personnel, had knowledge of the Tender (including price) or any other Tenderer, excluding any subcontractors, prior to the Closing Time.
- 5.5 The Tenderer warrants that neither it, nor any Tenderer Personnel, disclosed the Tender (including price) submitted by the Tenderer to any other Tenderer or to any other person or organisation, excluding any subcontractors, prior to the Closing Time.
- 5.6 Prior to the Tenderer submitting its Tender, neither the Tenderer nor any Tenderer Personnel have entered into any contract, agreement, arrangement or understanding that if successful, the Tenderer would pay any money, or would provide any other benefit or other financial advantage, to or for the benefit of any other party who unsuccessfully responded to the RFT.
- 5.7 In lodging its Tender via AusTender, the Tenderer warrants that it has taken reasonable steps to ensure that all Tender files are free from Harmful Code or anything else that might compromise the integrity or security of AusTender or the Department's computing environment.

6. Conflict of Interest

- 6.1 Apart from any actual or potential conflict of interest declared at **clause 12** of this Deed Poll and in accordance with **clause 28.2** of the RFT, at the date of lodging the Tender, no conflict of interest exists or might arise concerning the Tenderer, a member of its consortium, a subcontractor or a Related Body Corporate of the Tenderer, in respect of the RFT Process or the provision of the Requirement under any contractual arrangement arising from the RFT Process.
- 6.2 If at any time during the RFT Process, an actual or potential conflict of interest of the nature specified in **clause 28.1** of the RFT arises, or may arise, the Tenderer will notify the Department in writing of that conflict and describe how it proposes to manage that conflict of interest.

7. Further representations

- 7.1 The Tenderer makes the following further representations to the Department:

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- (a) it is authorised to sell and/or support all products required in the performance of the Services relating to this Tender;
- (b) it has examined the AusTender Terms of Use which are obtainable on the AusTender website (www.tenders.gov.au);
- (c) it has examined the RFT, all documents referred to in the RFT and all other information made available to it and all applicable legislation and policies;
- (d) it has examined all further information which is obtainable by making reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its Tender;
- (e) it has satisfied itself as to the correctness and sufficiency of its Tender;
- (f) it has relied entirely on its own enquiries and has not relied on any representation, warranty or other conduct by or on behalf of the Department, except as expressly provided in the RFT or in notices received by it;
- (g) it has accepted and has fully complied with the provisions of the RFT; and
- (h) that it will not, in negotiating the terms of any contractual arrangement with the Department, depart from the information it has provided or statements or claims it has made in its Tender.

8. Acknowledgements

8.1 The Tenderer acknowledges and agrees that:

- (a) it has read the RFT and understands the RFT Process and its requirements. In particular, the Tenderer has considered all paragraphs in **Attachment B** (Statement of Requirement) of the RFT and clauses in **Attachment D** (Draft Agreement) of the RFT and agrees to them, unless otherwise noted in its completed Table of Compliance (refer to **Form 9** of **Attachment F** (Tender Response Forms) of the RFT);
- (b) without limiting or being constrained by any other clause of this Deed Poll, the Tenderer agrees to comply with the RFT, including obligations and acknowledgments contained in the RFT, and acknowledges that the Department may exercise any of its rights in the RFT or in respect of the RFT at any time;
- (c) lodgement of a Tender on time and in accordance with the conditions set in the RFT is entirely the Tenderer's responsibility;
- (d) the Department will not be liable for any loss, damage, costs or expenses incurred by the Tenderer or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT is not received on time, is corrupted or altered or otherwise not received as sent, cannot be read or decrypted or has its security or integrity compromised

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- (e) the Department does not warrant that unauthorised access to information and data transmitted by the internet will not occur and that it should take its own measures to protect information transmitted electronically;
- (f) the statements, opinions, projections, forecasts or other information contained in the RFT may change;
- (g) neither the lodgement of the Tender nor the acceptance of any Tender nor any agreement made subsequent to the RFT will imply any representation from or on behalf of the Department that there has been no material change since the date of the RFT or since the date as at which any information contained in the RFT is stated to be applicable;
- (h) except as required by Law and only to the extent so required, neither DIBP, DIBP Personnel and DIBP contractors will in any way be liable to any person or body for any loss, damage, cost or expense of any nature arising in any way out of or in connection with any representations, opinions, projections, forecasts or other statements, actual or implied, contained in or omitted from the RFT; and
- (i) the Department will have received the Tenderer's Tender in reliance on this Deed Poll and that the Department may suffer loss if any of the representations, undertakings, consents or other statements in this Deed Poll or the Tenderer's Tender are misleading or deceptive.

9. Costs

- 9.1 The Tenderer acknowledges that participation in any stage of the RFT Process, or in relation to any matter concerning the RFT, will be at its sole risk, cost and expense. The Tenderer will be, and the Department will not be, responsible in any circumstance for any costs or expenses incurred by the Tenderer related to:
- (a) responding to, or complying with the requirements of, the RFT or the RFT Process; or
 - (b) taking any other action, including any dispute or response, in relation to the RFT or the RFT Process.

10. Corporate capacity

10.1 The Tenderer confirms that:

- (a) it has the capacity to respond to the RFT;
- (b) there are no restrictions under any relevant Law to prevent it from so responding;
- (c) it is financially viable and commercially viable; and
- (d) the Tenderer:
 - (viii) being a corporation - is not under one of the forms of external administration referred to in chapter 5 of the Corporations Act 2001

RFT 11/16 - Attachment F - Tender Response Forms (Cth) and has not had an order made against it for the purpose of placing it under external administration; or

- (ix) being an individual - is not bankrupt and has not entered into a scheme of arrangement with creditors.

11. Security, probity, due diligence and financial checks

11.1 Without limiting **clause 38** of the RFT or clause 11.2 of this Deed Poll, the Tenderer consents and has obtained, or will obtain, all necessary consents (including from subcontractors, Related Bodies Corporate, consortium members and their respective officers or employees), to DIBP and DIBP Personnel:

- (a) performing such security, probity, due diligence and financial investigations and procedures as DIBP, at its absolute discretion, may determine are necessary (including in relation to the Tenderer, any consortium member, their employees, officers, partners, associates, subcontractors or Related Bodies Corporate); and
- (b) seeking any financial information required for the purpose of establishing the financial viability of the Tenderer.

11.2 The Tenderer agrees to provide at its cost, all reasonable assistance to the Department and its nominees to assist it in performing the investigations and procedures referred to in clause 11.1 of this Deed Poll.

12. Declaration of Conflicts of Interest (if any) (see clause 28 of the RFT and clause 6 of this Deed Poll)

12.1 A Tenderer should declare any circumstances or relationships that constitute or may constitute actual or potential conflicts in respect of the RFT or the Tenderer's obligations under the Agreement arising from the RFT Process below. A Tenderer should indicate in detail how it proposes to manage any conflict of interest including any conflict(s) of interest declared below. The Tenderer should identify any relationship between itself and potential S1 and S3 solution providers.

12.2 If at any time prior to entering into the Agreement, an actual or potential conflict of interest arises or may arise, the Tenderer will notify the Department in writing of that conflict and describe how it proposes to manage that conflict.

13. Declaration about Proceedings (see clause 14 of the RFT)

13.1 The Tenderer declares that there are no Proceedings (as defined in clause of the RFT) that, to the best of the Tenderer's knowledge and belief after having made proper enquiry are taking place, pending or threatened, against the Tenderer or a Related Body Corporate where such Proceedings will or have the potential to impact adversely upon either:

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- (a) the Tenderer's capacity to perform and fulfil its obligations if contracted as a result of the RFT Process; or
- (b) the Tenderer's reputation.

13.2 If there are no Proceedings (as defined in **clause 14** of the RFT), indicate "No" below:

13.3 The Tenderer discloses the following Proceedings (as defined in **clause 14** of the RFT):

14. Workplace Gender Equality Act 2012 (Cth)

- 14.1 Under Commonwealth procurement the Tenderer 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 either a registered higher education provider that is an employer, or a natural person or a body or association (whether incorporated or not) being the employer of 100 or more employees in Australia, but does not include the Commonwealth, a State, a Territory or an authority. For more information about the coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000.

Note to Tenderers: Check the relevant box. If you check box (a), please ensure your letter of compliance is attached to this Deed Poll.

- ☐ (a) Yes, the Tenderer is a relevant employer. The Tenderer has attached a current letter of compliance as part of this Tender which indicates my compliance with the *Workplace Gender Equality Act 2012* (Cth).
- ☐ (b) Yes, the Tenderer is a relevant employer. The Tenderer will be providing a current letter of compliance prior to contract.
- ☐ (c) No, the Tenderer is not a relevant employer.

15. Declaration about Illegal Workers

Note to Tenderers: Please delete the option/s which do not apply to you.

15.1 The Tenderer declares that:

- (a) if and any party proposed by the Tenderer to provide any of the Services **[has]/[has not]** received a penalty or order arising from a Court or Tribunal decision in relation to an Illegal Worker; and

- (b) it and any party proposed by the Tenderer to provide any of the Services **[has]/[has not]** fully complied with a penalty or order arising from a Court or Tribunal decision in relation to an Illegal Worker.

Note: see definition of "Illegal Workers" in the Glossary in Attachment A of the RFT.

16. Lobbying Code of Conduct

- 16.1 The Tenderer represents and warrants that it has not engaged in, or procure or encouraged others to engage in, activity that would result in a breach of the Lobbying Code of Conduct or the Australian Public Service Commission (APSC) Circular 2008/04, *Requirements relating to the Lobbying Code of Conduct and Post Separation Contact with the Government* where their activities fall within the scope of the Lobbying Code of Conduct.

17. Employee entitlements

- 17.1 The Tenderer represents that, having made all reasonable enquiries, there are currently no unsettled judicial decisions against the Tenderer in respect of unpaid employee entitlements (not including decisions under appeal).

18. Sanctions

- 18.1 The Tenderer declares neither it, nor any Tenderer Personnel, proposed Subcontractors or *agents* or Related Body Corporates, are listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth).

Note: The list is available from the [Department of Foreign Affairs website](#).

- 18.2 The Tenderer declares neither it, nor any Tenderer Personnel, proposed Subcontractors or agents or Related Body Corporates, are named in the consolidated list referred to in Regulation 40 of the *Charter of United Nations (Dealing with Assets) Regulations 2008* (Cth).

Note: The list is available from the [Department of Foreign Affairs website at http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html](#).

- 18.3 The Tenderer declares it, and any Tenderer Personnel, proposed Subcontractors or agents or Related Bodies Corporates comply with the United Nations Security Council sanctions regimes under the *Charter of the United Nations Act 1945* (Cth) and the *Australian autonomous sanctions regimes under the Autonomous Sanctions Act 2011* (Cth).

Note: Further information is available at <http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>

19. Other Laws

- 19.1 The Tenderer represents that, to the best of its knowledge after having made proper enquiry, it has complied with, and will continue to comply with:
- (a) any obligations applicable to the Tenderer contained in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
 - (b) all other relevant Laws in preparing and lodging its Tender and taking part in the RFT Process.

20. Governing law

- 20.1 This Deed Poll is subject to and is to be construed in accordance with the Laws in force in the Australian Capital Territory.
- 20.2 The Courts of the Australia Capital Territory will have non-exclusive jurisdiction to decide any matter arising out of this Deed Poll.

EXECUTED AS A DEED POLL

Signed sealed and delivered by **[insert name of Representative]** for and on behalf of **[insert Tenderer's name and ABN]** in the presence of:

|

Signature of Witness

Signature

Name of Witness in full

Name of Signatory

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Form 3: Executive summary of Tender

EXECUTIVE SUMMARY OF TENDER

The Tenderer should provide an Executive Summary of its solution.

Note to Tenderers: The executive summary is not to exceed two (2) A4 pages and is not to exceed 500 words in length. No Pricing information should be included in the executive summary. Note that the executive summary may be made available to Ministers and other stakeholders. Accordingly, do not include information in the executive summary that the Tenderer would not want disseminated.

A pre-determined structure has not been set. However, the executive summary should include a brief introduction/description of the Tenderer; the strategy the Tenderer intends to implement in meeting the Services; and the key elements the Tenderer considers sets its solution apart from its competitors.

The executive summary should also include any background details necessary to assist the Department's understanding of the Tenderer's Tender. The executive summary should describe the scope of the Tender and include a statement of the overall outcomes the Tenderer is seeking to achieve.

The executive summary is NOT to include any pricing details.

Tenderer Response:

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Form 4A: Tenderer’s response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Relative Importance of Evaluation Criteria and Business Requirements

Criticality	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

Technical Criterion 1 - Technical Capability

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
Ability to Innovate		
The Tenderer is to detail the innovation and automation that it will bring to the Agreement, detailing: the innovation (e.g. the application of artificial	Highly Desirable	

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Criterion 1	RELATIVE IMPORTANCE	
Technical Capability – General		
intelligence) and/or automation (e.g. IVR processes); when the Tenderer will bring this to the Services; the dependencies, including on the Department, to bring this to the Services; and the anticipated benefits to the Department and/or the Clients.		
The Tenderer is to detail how they will bring innovation into their approach for data capture and reporting.	Desirable	
Ability to Meet Policy		
The Tenderer is to adhere to the Government's Digital First Agenda. Detail how you will meet this requirement.	Desirable	
The Tenderer is to adhere to the Digital Services Standard, as set out by the Digital Transformation Agency. Detail how you will meet this requirement.	Desirable	
Ability to Deliver the Services		
The Tenderer is to detail how it will provide voice access for Clients. As a minimum the Tenderer is to address access for Clients from: each State and Territory in Australia; and the two most populace Countries of each Continent (excluding Antarctica).	Highly Desirable	
The Tenderer is to detail how they will manage Client	Highly Desirable	

Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
<p>Enquiries when a Service Level is not met, specifically addressing:</p> <ul style="list-style-type: none"> how the Tenderer will ensure calls are not dropped; how the Tenderer will recover any calls that are dropped; how the Tenderer will manage Client Enquiries that fall outside the required Service Levels, including calls that are not answered and speaking to an operator within 90 seconds; how the Tenderer will apply a Service Charge ^{s4} [redacted] for call backs. 		
<p>The Tenderer is to detail how they will meet any sudden increase in demand for the Services, including:</p> <ul style="list-style-type: none"> the provision of additional Supplier Personnel; the time for these personnel to reach proficiency; the capacity and capability of their systems; the capacity of the Supplier Facilities. 	Highly Desirable	
<p>The Tenderer is to detail how they will meet urgent changes to knowledge requirements in response to crises or sudden changes in policy, including:</p> <ul style="list-style-type: none"> the methodology to ensure the Tenderer obtains the required knowledge to meet the new requirement; the processes for updating information in the 	Highly Desirable	

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Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
systems used to support the Services; and the implementation of training for Supplier Personnel to meet the new requirement.		
The Tenderer is to detail their intended Ticket Management approach to Client Enquiries	Desirable	
Ability to Meet Reporting Requirements		
The Tenderer is to detail how they will meet the reporting requirements in Schedule 11 (Reporting) and otherwise in the Agreement, specifically addressing: how will the Tenderer identify and record repeat callers; how will the Tenderer capture and record data for reporting.	Highly Desirable	

Criterion 1 Technical Capability – Business Requirements		
Ability to Meet the Operational Requirements		
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Implementation Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	

Criterion 1		
Technical Capability – Business Requirements		
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the General Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Services Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Architecture Requirements in Schedule 2 (Business Requirements and Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	

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Criterion 1		
Technical Capability – Business Requirements		

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Criterion 1 Technical Capability – Draft Plans		
Quality of Draft Plans Tendered		
<p>The Tenderer’s attention is drawn to Forms 11 - 22 of Attachment F (Tender Response Forms) to the RFT.</p> <p>Each draft plan will be assessed for its:</p> <ul style="list-style-type: none">Quality;Relevance;Completeness;Conciseness;Ease of Understanding; andEase of Implementation (as applicable). <div>Note to Tenderers: Plans should be specific and not contain generic statements or manuals.</div>	Highly Desirable	

Form 4B: Tenderer’s response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 2 - Implementation Approach

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 2 Implementation Approach		
Transition		
<p>The Tenderer should:</p> <p> demonstrate its capacity to successfully Transition In;</p> <p> describe its proposed approach to Transition In;</p> <p> s47C</p> <p> describe its proposed approach to Exit the Agreement.</p> <p>[Note to Tenderers: You should include draft Transition Plans as part of your Tender. Please see Form 12 of Attachment F (Tender Response Forms) to the RFT.]</p>	Essential	
Supplier Personnel and Clearances		
<p>The Tenderer should demonstrate its ability to attract, train and retain Supplier Personnel including:</p>	Highly Desirable	

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Criterion 2 Implementation Approach		
<p>proposed recruitment activity;</p> <p>evidence where it has successfully conducted similar recruitment for similar implementations; and</p> <p>proposed training services and delivery modality including documentation to meet the Services.</p> <p>[Note to Tenderers: You should include a draft Training Plan as part of your Tender. Please see Form 18 of Attachment F (Tender Response Forms) to the RFT.]</p>		
<p>The Tenderer should identify the key personnel that it will dedicate to the implementation of the Services, including:</p> <p>proposed role;</p> <p>experience relevant to their proposed role;</p> <p>curriculum vitae; and</p> <p>qualifications relevant to their proposed role.</p>	Highly Desirable	
<p>The Tenderer should outline how it will ensure it has the required number of Supplier Personnel with appropriate clearances to manage the Client Enquiry Services. The Tenderer should address, as a minimum, a statement of their understanding of and how they will meet the demands for:</p> <p>transition periods;</p> <p>general staff churn;</p> <p>seasonal surge; and</p>	Highly Desirable	

Criterion 2		
Implementation Approach		
urgent changes.		
<i>[Note to Tenderers: In addition to general character and reference checks, appropriate clearances for Supplier Personnel who require Line of Business access include ESC and AGSVA clearances (see Schedule 3 – Security to the Draft Agreement).]</i>		

Form 4C: Tenderer’s response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 3 - Organisational capability

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 3 Capacity and Organisational Capability		
Capacity		
The Tenderer should demonstrate its capacity to deliver on the solution proposed in Criterion 1, including: technological aspects; personnel aspects; managerial support; administrative support; and facilities, including so as to achieve and maintain all necessary Supplier Facility security accreditations.	Essential	

Criterion 3		
Capacity and Organisational Capability		
<p>The Tenderer is to detail how its solution will maximise value to the Department for future increases in client enquiry volumes. This needs to include both:</p> <p>Future increases in onshore enquiries that need to be managed onshore; and</p> <p>Future increases in offshore enquiries that do not need to be managed onshore.</p> <p>[Note to Tenderers: This is a potential future requirement.]</p>	Desirable	
<p>The Tenderer should demonstrate its project governance requirements including appropriate change management, issues management</p>	Desirable	

Criterion 3 Capacity and Organisational Capability		
Experience		
The Tenderer should provide two (2) examples of recent relevant projects where the Tenderer has implemented and operated a solution similar to that proposed for the Department, including: a description of the project; key statistics including: volumes; value; client demographics; lessons learned; and innovation implemented.	Highly Desirable	
The Tenderer should provide two case studies detailing where they have successfully transitioned from an insourced to an outsourced service provision model, particularly detailing the client/service provider interfaces.	Highly Desirable	
The Tenderer should provide the details of at least two (2) referees who can attest to past performance in the delivery of like services.	Desirable	

Form 4D: Tenderer’s response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 4 - Continuous Improvement

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 4 Continuous Improvement		
Continuous Improvement		
The Tenderer should: explain its approach to delivering continuous improvement throughout the life of the Agreement; s47C	Highly Desirable	
Service Levels		
The Tenderer should: demonstrate how it will meet the Service Levels as detailed at Attachment C (Service Levels), including the processes and procedures that enable it to meet the Service Levels; describe its proposals for Service Levels and Service Level metrics (these may be included in Schedule	Essential	

Criterion 4		
Continuous Improvement		
6 (Service Levels and Credits)); describe how it will monitor and report on Service Levels as described at Attachment C (Service Levels); and describe proposed Service Rebates (please include these in your Pricing Response in Form 5 of Attachment F (Tender Response Forms).		

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 5: Tenderer's Pricing Response

PRICING RESPONSE

Note to Tenderers: See Separate Document. Tenderers need to complete their Pricing Response set out in this Form 5. The Tenderer's Pricing Response to this Form 5 will be used to develop Schedule 5 - Pricing Schedule to the Draft Agreement.

Form 5: Tenderer's Pricing Response**PRICING RESPONSE**

Note to Tenderers: See Separate Document. Tenderers need to complete their Pricing Response set out in this Form 5. The Tenderer's Pricing Response to this Form 5 will be used to develop Schedule 4 - Pricing Schedule to the Draft Contract.

1. Pricing

- 1.1. This **Form 5** sets out the approach to pricing and the Service Charges and payable by DIBP under **Attachment D** (Draft Contract).
- 1.2. The Tenderer should:
 - 1.2.1. complete the Pricing Tables set out in this **Form 5** with its offered Service Charges to provide the Services;
 - 1.2.2. include any assumptions or other caveats on which the pricing in the Pricing Tables is based and the effect of the assumptions or other caveats on Service Charges, as well as information or events required to remove assumptions and caveats on Service Charges, are to be included in the Tender's completed Pricing Response;
 - 1.2.3. provide sufficient information for DIBP to determine whether Service Charges are reasonable in the context of the Commonwealth assessment of value for money; and
 - 1.2.4. if this is an alternative Tender, provide the price differential for any alternative solutions.
- 1.3. In considering their pricing, the Tenderer should take into account that:
 - 1.3.1. DIBP are relying on the expertise of the Tenderer in the provision of the Services;
 - 1.3.2. all costs associated with supply, delivery, installation, connection, testing, licensing, coordinating and administering the Services will be the responsibility of the Tenderer; and
 - 1.3.3. DIBP will not pay any costs for any aspect of the Services unless these are clearly articulated by the Tenderer in this Pricing Response prior to entering into any Contract.
- 1.4. Pricing information specified in the Pricing Tables should:
 - 1.4.1. be inclusive of all charges, expenses and Taxes, subject to the requirements regarding Goods and Services Tax (**GST**);
 - 1.4.2. be inclusive of GST, but identify separately the GST component where required;
 - 1.4.3. apply for the duration of the Tender Validity Period; and
 - 1.4.4. contain all additional information on pricing required by this RFT.

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Form 5 Tenderer's Pricing Response

- 1.5. All Service Charges should be submitted in Australian dollars, however hedging of funds is not in accordance with current Australian Government policy and therefore Tenderers may submit pricing in currency other than AUD. Where any portion of the Service Credits is in foreign currency, the Tenderer should clearly specify the currency being used. The Tenderer should not convert any relevant amounts of foreign currency into Australian dollars. In evaluating the Tenderer's pricing response to this **Form 5**, DIBP will apply the relevant exchange rate published by the Reserve Bank of Australia at the Closing Time.

s47C

Assumptions/Qualifications:

Note to Tenderers: Tenderers are to insert details of any assumptions or qualifications on which the Tendered cost is based. The Tenderer will not be allowed to rely on any assumptions made unless they are listed below.

Assumptions/Qualifications

RFT 11-16 - Attachment F - Tenderer Response Forms
Form 5 Tenderer's Pricing Response

PRICING TABLES

Please see separate Excel spreadsheet document 'Attachment F – Form 5 – Pricing.xlsx'.

Attachment F - Form 5 - Pricing

Checklist

Note to Tenderers: This checklist is provided as guidance only for you to confirm that you have completed all relevant Pricing responses in your Tender.

Worksheet	Completed	Comment
Checklist		This worksheet.
Proposed Fee Structure		
Cost Element		
s47C		
Innovation		
Economic Benefit		
Alternative Tenders		

Attachment F - Form 5 - Pricing

Proposed Fee Structure

Note to Tenderers: use this table to describe the fee structure you would propose to utilise for the contract. You should provide a description of the fee structure, including the basis of payment (i.e. per call, per minute, per month, etc), what the payment would be (in AUD) and any other information that would be applicable to support the proposed fee structure. This information may be used to support further decisions with regard to pricing and payments during the Agreement (if any). You may submit any number of fee structures. s47C

The fundamental requirement for this table is to understand your fee structure and the assumptions you have made to support this structure and to this extent you may alter this table as required.

Service Charges (Departmental funded)

Describe your proposed fee structure

Assumptions to build fee structure

Description	Value	Comment
Annual Cost		
Call Volume		
Average Call Time		
WebForm Volume		
Average WebForm Contact Time		
WebChat Volume		
Average WebChat Contact Time		
Social Media Volume		
Average Social Media Response Time		
Other (add as applicable)		
Other (add as applicable)		

s47C

Attachment F - Form 5 - Pricing

Cost Elements

Note to Tenderers: use this table to describe the elements that support the fee structure you propose to utilise for the contract. This information may be used to support further decisions with regard to pricing and payments during the Agreement (if any). The fundamental requirement for this table is to understand ALL of the cost elements that influence your fee structure and to this extent you may alter this table as required.

	Value	Per (e.g. annum / call / unit)	Comment
Transition			
Management			
Staffing			
Recruitment			
Training			
Design			
Build			
Implement			
Other (please specify)			
Operation			
Facilities			
Infrastructure			
Hardware			
Software			
Management Staff			
Operations Staff			
Support Staff			
Other (please specify)			
Projects (breakdown of costs for conducting discrete project activities)			
Project Manager			
Team Lead			
System Architect			
Solution Architect			
Business Analyst			
Developer			
Other (please specify)			
Other (please specify)			
Other			
* identify ALL other cost elements here			

s47C



Attachment F - Form 5 - Pricing

Innovation

Note to Tenderers: You are to use this table to identify any costs that will not be borne by you, and that are not otherwise identified in the Cost Elements, for the implementation of your proposals in accordance with Criterion 1 (Ability to Innovate) in Attachment F - Form 4 - Tender Response Forms. The Department will not be responsible to pay any costs associated with the implementation of the innovation and automation identified unless those costs are identified within this Attachment F - Form 5 - Pricing. You may alter this table as required.

	Value	Per (e.g. annum / call / unit)	Comment
Innovation			
* insert a brief description here. Add an additional row for each innovation.			

Automation			
* insert a brief description here. Add an additional row for each automation.			

Attachment F - Form 5 - Pricing

Broader Benefit to the Australian Economy

Note to Tenderers: The Department is required to consider the economic benefit of this procurement to the Australian economy. You are to use this table to economic benefit of your proposal to the Australian economy. This headings below are provided as guidance and you may alter this table as required. See the Department of Finance advice at <http://www.finance.gov.au/sites/default/files/guidance-new-rules-10-30-and-10-31-16.pdf> for further guidance.

	Value	Per (e.g. annum / call / unit)	Comment
Better use of Ausralian resources			
* insert a brief description of the benefit here.			
Increases productivity			
* insert a brief description here.			
Increase productivity-enhancing technology development and adoption			
* insert a brief description here.			
Other			

* insert a brief description here. Add additional rows as required.			
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Attachment F - Form 5 - Pricing

Alternative Tenders

Note to Tenderers: your attention is drawn to Clause 13 Alternative Tenders of the Request for Tender. You should use this table to describe your alternative tender and the fee structure you would propose to utilise for any alternative tenders. The fundamental requirement for this table is to understand your alternative proposal and the associated fee structure and to this extent you may alter this table as required.

Description

* describe your alternative proposal, paying particular attention to where your proposal does not meet the Statement of Requirements.

Fee Structure

* include the structure and costs here.

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Form 6: Details of Confidential Information

DETAILS OF CONFIDENTIAL INFORMATION

To enable the Department to consider whether it agrees to keep specific information confidential, the Tenderer should indicate below what information (if any) it requests be treated as confidential, giving reasons why it is necessary to keep the information confidential.

The Tenderer should have regard to the matters identified in the Department of Finance's "Confidentiality throughout the Procurement Cycle Principles", available at <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/principles.html>.

Tenderer Response:

Information requiring confidential treatment	Reason	Confidentiality Period
[Tenderer to insert details]	[Tenderer to insert details]	[Tenderer to insert details]

Form 7: Details of Financial Viability and Commercial Viability of the Tenderer**FINANCIAL VIABILITY AND COMMERCIAL VIABILITY
OF THE TENDERER****Note to Tenderers: This is a Condition for Participation.****Details of Tenderer and Key Subcontractors (if any) should be provided in Form 1 of Attachment F (Tender Response Forms) of the RFT.**

1. The Tenderer should provide, without limitation, the following or equivalent information in the table below to satisfy the Department of its financial viability and commercial viability.

Item	Tenderer Response
Details of its ownership structure	
Australian Business Number for GST purposes	
If registered with the Australian Securities and Investments Commission, any Australian Company Number or Australian Registered Body Number	
If registered under State or Territory legislation, any registered business name or association name	
A full description of the Tenderer's current operations	
The names of all directors and officers of the Tenderer's organisation	
Business profiles and corporate objectives and priorities of its organisation	

2. If the Tenderer is a company it should provide:

Item	Tenderer Response
Full details of the legal and financial relationship between itself and any Related Body Corporate and Key Subcontractors (if any) at Form 1 of the RFT	

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The names of all directors and officers and business profiles and corporate objectives and priorities for each Related Body Corporate	
The details of its ten (10) largest shareholders	
The date and place of incorporation and a copy of its certificate of incorporation	

3. If the Tenderer is part of a group of companies it should provide details of its group structure and any cross guarantees between group companies.

Tenderer response:

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4. If the Tenderer is a partnership it should provide the names and addresses of all partners and a copy of the partnership deed.

Tenderer response:

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5. The Tenderer should disclose any civil or criminal prosecutions within the past five (5) years of the Tenderer, any Related Body Corporate, any partner or any director or officer of the foregoing concerning any of the following, or any allegation of the following:

- (a) failure to pay any taxes, levies, fees, duties, or other similar payments to the Commonwealth of Australia, a State, Territory, or local taxing authority within Australia or to any foreign taxing authority;
- (b) malfeasance, misfeasance, or nonfeasance of any duties imposed by law in Australia or in any foreign jurisdiction; or
- (c) participation in, or acquiescence to, any practices in the dealing with any government in Australia or any foreign jurisdiction that are unlawful under the law of Australia or the foreign jurisdiction concerned, or (if relating to a parent entity or Related Body Corporate or director or officer thereof) under the law of any jurisdiction that such parent entity or related organisation is subject to.

Tenderer response:

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6. The Tenderer should disclose any pending investigation of a similar nature of any of the entities or persons of which such entity or person has actual notice.

Tenderer response:

7. The Tenderer is required to demonstrate that they have the financial viability to provide the Services over the Term of any resultant Agreement. The Tenderer should provide the following (or equivalent information to satisfy the Department of the following):
- (a) annual reports or audited financial statements for its last three (3) years of operation - if the latest audited financial statements are dated in excess of six (6) months ago, the latest management accounts for the Tenderer;
 - (b) descriptions of any recent changes of substance in the Tenderer's financial position that are not reflected in the most recent annual report or financial statement provided pursuant to paragraph (a) above;
 - (c) a summary of any court actions, charges, liens or encumbrances affecting the Tenderer's assets or the ownership of the Tenderer or any directors or partners of the Tenderer (including any such court actions, charges, liens, or incumbencies affecting any parent entity);
 - (d) details of any significant events, matters or circumstances which have arisen since the end of the last financial year which may significantly affect the performance of the Agreement;
 - (e) profit and loss budget forecasts and/or cash flow forecasts for the next three (3) financial years;
 - (f) details of any planned debt or equity capital raisings;
 - (g) a statement confirming the solvency of the Tenderer and each of its related entities, principal share and equity holders and partners;
 - (h) a statement that the Tenderer is not aware or any application to place the Tenderer or any Related Body Corporate, principal share and equity holders or partners in liquidation, administration or the equivalent;
 - (i) where the Tenderer requires the guaranteed full financial support of its parent company, annual reports or audited financial statements for the last three (3) years of operation of the parent company. If the latest audited financial statements are dated in excess of six (6) Months ago, the latest management accounts or unaudited draft financial statements for the parent are acceptable;
 - (j) it is not relevant for the Tenderer to provide financial information for a related entity, if that related entity does not have a cross guarantee with the Tenderer (or can otherwise provide assurance that it will provide financial support to the Tenderer if required);

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- (k) any other factors the Tenderer desires to describe to support its demonstration of financial viability; and
- (l) a statement confirming that the Tenderer has the commercial capacity to provide the Services.

Tenderer response:**Insurance Coverage**

8. The Tenderer should provide details of its insurances, including:

- (a) Public Liability insurance;
- (b) Workers Compensation insurance;
- (c) professional indemnity insurance;
- (d) product liability insurance; and
- (e) marine cargo or goods in transit cover.

9. This should include:

- (a) the name of the insurer;
- (b) the policy number;
- (c) the expiry date; and
- (d) the amount of cover provided in the policy.

10. If the Tenderer self-insures for any of these risks, this should also be identified and explained.

Tenderer response:**Newly-formed Organisations**

11. If the Tenderer does not have an established track record of service/supply delivery (for example if the Tenderer has been recently created to represent a consortium or in a new partnership):

- (a) the Department expects that the Tenderer will provide sufficient information and assurances in the categories above in order to satisfy the Department that the

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Tenderer has access to the necessary resources and will have an appropriate level of financial backing, to perform the Agreement; and

- (b) the Tenderer should provide the information and assurances requested for each entity that the Tenderer will be dependent upon for any financial backing including without limitation:
- (i) full details of each entity's proposed role in, or relevance to, the performance of the Agreement;
 - (ii) a description of any current or past co-operative ventures between the entities supporting the Tenderer; and
 - (iii) a description of each entity's proposed liability, and any limitations on its liability, relating to the performance of the Agreement.

Tenderer response:

Changes to Corporate Structure, Ownership and Support

12. The Tenderer should confirm that it will promptly notify the Department in writing of any change, after lodgement of its Tender, to the basis upon which it will have access to the necessary skills, resources, or corporate or financial backing to perform the Agreement, including in relation to Key Subcontractors.
13. Where such change would alter any of the information or assurances that the Tenderer has given in its response to the RFT, the Tenderer should immediately:
- (a) identify with specificity (including all relevant page, section, clause, schedule, exhibit and other like references to its Tender, and any other Material and information provided to the Department), all such information and assurances; and
 - (b) state in detail the alterations to such information and assurances required by such change.

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
**Form 8: Details of Financial Viability and Commercial Viability
of Key Subcontractors**

FINANCIAL VIABILITY AND COMMERCIAL VIABILITY OF KEY SUBCONTRACTORS

Note to Tenderers: This is not a Condition for Participation.

Details of Key Subcontractors (if any) should also be provided in Form 1 of Attachment F (Tender Response Forms) of the RFT. Tenderers should provide for the following details for each Key Subcontractor included in Form 1. Please refer to the definition of Key Subcontractor in Attachment A (Glossary) of the RFT.

Demonstration of Key Subcontractor/s' financial viability and commercial viability will be considered as part of the overall risk assessment of the Tenderer.

1. The Tenderer should provide the following or equivalent information to demonstrate Key Subcontractor/s' financial viability and commercial viability:

Item	Tenderer Response
Details of its ownership structure	
Australian Business Number for GST purposes	
If registered with the Australian Securities and Investments Commission, any Australian Company Number or Australian Registered Body Number	
If registered under State or Territory legislation, any registered business name or association name	
A full description of the Key Subcontractor's current operations	
The names of all directors and officers of the Key Subcontractor's organisation	
Business profiles and corporate objectives and priorities of its organisation	

2. The Tenderer, with regard to the Key Subcontractor/s is required to demonstrate that they have the financial viability to provide the Services over the Contract Period. The Tenderer should provide the following (or equivalent information to satisfy the Department of the following) for each Key Subcontractor:
 - (a) annual reports or audited financial statements for its last three (3) years of operation - if the last audited financial statements are dated in excess of six (6) months ago, the latest management accounts for the Key Subcontractor;

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- (b) descriptions of any recent changes of substance in the Key Subcontractors' financial position that are not reflected in the most recent annual report or financial statement provided pursuant to paragraph (a) above;
- (c) a summary of any court actions, charges, liens or encumbrances affecting the Key Subcontractor's assets or the ownership of the Key Subcontractor or any directors or partners of the Key Subcontractor (including any such court actions, charges, liens, or incumbencies affecting any parent entity);
- (d) details of any significant events, matters or circumstances which have arisen since the end of the last financial year which may significantly affect the Tenderer's performance of the Contract;
- (e) details of insurance cover held and/or proposed in respect of the Contract. Such details should include, but need not be limited to:
 - (i) types of insurance coverage held;
 - (ii) details of any blanket policy held; and
 - (iii) amount of cover provided in policy;
- (f) profit and loss budget forecasts and/or cash flow forecasts for the next three (3) financial years;
- (g) details of any planned debt or equity capital raisings;
- (h) a statement confirming the solvency of the Key Subcontractor and each of its related entities, principal share and equity holders and partners;
- (i) a statement that the Key Subcontractor is not aware of any application to place the Key Subcontractor/s or any Related Body Corporate, principal share and equity holders or partners in liquidation, administration or the equivalent;
- (j) where the Key Subcontractor/s requires the guaranteed full financial support of its parent company/related entity, annual reports or audited financial statements for the last three years of operation of the parent company/related entity. If the latest audited financial statements are dated in excess of six (6) Months ago, the latest management accounts or unaudited draft financial statements for the parent are acceptable;
- (k) it is not relevant to provide financial information for a Key Subcontractors' related entity, if that related entity does not have a cross guarantee with the Key Subcontractor/s (or can otherwise provide assurance that it will provide financial support to the Key Subcontractor/s if required);
- (l) any other factors the Key Subcontractor/s desires to describe to support its demonstration of financial viability; and
- (m) a statement confirming that the Key Subcontractor/s has the commercial capacity to provide the Services (where this is applicable).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 9: Statement of Non-Compliance

STATEMENT OF NON-COMPLIANCE

1. Statement of Non-Compliance

1.1 Subject to **paragraph 1.6** of this **Form 9** (Statement of Non-Compliance) of **Attachment F** (Tender Response Forms), in a table based on the table below, the Tenderer should list each clause/paragraph of the:

- (a) **Request for Tender;**
- (b) **Attachment A** (Glossary);
- (c) **Attachment B** (Statement of Requirement);
- (d) **Attachment C** (Service Levels); and
- (e) **Attachment D** (Draft Contract), and the legal Schedules attached to that Contract, including:
 - (i) Schedule 3 - Security Requirements;
 - (ii) Schedule 4 - Transition Management;
 - (iii) Schedule 6 – Service Levels and Service Credits;
 - (iv) Schedule 9 - HR Management;
 - (v) Schedule 12 - Audit Access;
 - (vi) Schedule 13 - Applicable Requirements;
 - (vii) Schedule 14 - Performance Guarantee; and
 - (viii) Schedule 17 - Confidentiality Undertaking;

for which the Tenderer is not fully compliant:

- (a) whether they are partially compliant or do not comply (for each clause/paragraph);
- (b) the reason for partial compliance or non-compliance and alternative clauses/paragraphs the Tenderer proposes; and
- (c) any increase to tendered prices if the Department does not agree to the Tenderer's proposed amendment(s).

Clause/Para	Tick ("✓") one of the following:		If "Partially Complies" or "Does Not Comply" is ticked:	
	Partially Complies	Does Not Comply	– Reasons for Partial Compliance or Non-Compliance; and – Suggested alternative wording	Any increase to Prices if DIBP does not agree to Tenderer's proposed amendment

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1.2 The expressions used have the following meaning:

(a) **"complies"** means:

- (i) in the case of a clause/paragraph which specifies a characteristic or performance to be met by the Tenderer, that the Tenderer can (and will) meet the requirement as specified;
- (ii) in the case of a clause/paragraph which is of an informative nature only, the clause/paragraph has been read, understood and is agreed; or
- (iii) in the case of a clause/paragraph where information has been requested, that the information has been provided in the required level of detail and in the required format;

(b) **"does not comply"** means that the characteristic or performance requirement of the clause/paragraph cannot be met by the Tenderer; and

(c) **"partially complies"** means that the characteristic or performance requirement by the clause/paragraph can be substantially met by the Tenderer, subject to certain specified qualifications.

1.3 Where the Tenderer only partially complies or does not comply, the Tenderer should:

- (a) explain its reasons and in the case of **Attachment B** (Statement of Requirement) and **Attachment D** (Draft Contract) and **Schedule 5** (Applicable Requirements), provide suggested alternative wording; and
- (b) provide details of any increase in its Tender Prices if the Department does not agree to the amendment.

1.4 The Tenderer may choose to say that it complies with all or a group of clauses/paragraphs and separately identify the clauses/paragraphs with which it partially complies/does not comply.

1.5 The Department will consider any non-compliances or partial compliances in its evaluation of risks.

1.6 If Tenderers do not submit a response to this Form 9 they will be evaluated on the basis that they agree with all the provisions of the **Request for Tender**, including **Attachment B** (Statement of Requirement) and **Attachment D** (Draft Contract) and **Schedule 5** (Applicable Requirements).

1.7 The Department does not intend to permit a Tenderer to re-open any provision of the Draft Contract in negotiations that was not identified as an area of non-compliance or partial compliance in a Tender.

2. **Direct Competitor**

2.1 The Tenderer should provide details of those organisations that the Tenderer, for the purposes of clause 34.1.5 of the **Terms and Conditions**, considers being a Direct Competitor, including a brief description as to why the organisation is a Direct Competitor.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 10: Procurement Connected Policies

A. INDIGENOUS PROCUREMENT POLICY

Indigenous Procurement Policy

1. The Tenderer should provide detail on how it will increase its:
 - (a) purchasing from Indigenous enterprises (being an organisation that is 50 per cent or more Indigenous owned that is operating a business); and
 - (b) employment of Indigenous Australians,in the delivery of any resultant Contract.
2. Purchases from an Indigenous enterprise may be in the form of an engagement of an Indigenous enterprise as a subcontractor, and/or use of Indigenous suppliers in the Tenderer's supply chain.

Note to Tenderers: Supply Nation maintains a list of enterprises that meet the definition of "Indigenous enterprises" (see www.supplynation.org.au). If an enterprise is not listed with Supply Nation refer to section 1.8.1 of the Indigenous Procurement Policy for ways of ensuring an enterprise is an Indigenous enterprise.

3. Tenderers should consult the Indigenous Procurement Policy provided by the Department of Prime Minister and Cabinet available at:
https://www.dpmc.gov.au/sites/default/files/publications/indigenous_procurement_policy.pdf

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 11: Draft Risk Management Plan

DRAFT RISK MANAGEMENT PLAN

The Tenderer should provide a draft Risk Management Plan that addresses risks in relation to its provision of the Services and describes how the Tenderer proposes to address, manage and mitigate those risks. The Risk Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to executing an Agreement (if any).

1. The Tenderer's draft Risk Management Plan should also describe the Tenderer's Work Health and Safety (**WHS**) risk management, including the structure, means, resources (including management of persons/positions responsible) and timeframes.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 12: Implementation Plans

DRAFT TRANSITION PLANS

The Tenderer should provide the following draft Implementation Plans:

- (a) Transition In Plan;
- (b) s47C
- (c) Transition Out Plan;

Transition In Plan

1. The draft Transition In Plan should provide for competent, orderly and prudent transition of all Services in full from the Go Live Date. Tenderers should describe how the draft Transition In Plan addresses risks that are inherent to the introduction of a new Supplier's Solution. It is expected that the Supplier will work with the Department to finalise a Transition In Plan prior to the executing of an Agreement (if any) to smoothly transition the Services and closely monitor to minimise risks from this process.
2. The Tenderer should provide a draft Transition In Plan which sets out:
 - (a) an overview of the Transition
 - (b) the Tenderer's overall methodology and approach to complete the Transition
 - (c) the Transition objectives
 - (d) the Transition Dependencies
 - (e) the Transition Assumptions;
 - (f) governance structure for the Transition Period;
 - (g) the allocation of responsibilities between each of the Parties during the Transition Period;
 - (h) training of Supplier Personnel to provide the Services;
 - (i) how the Supplier will ensure Supplier Facilities achieve all necessary security accreditations in accordance with the Transition timeframes.
3. The draft Transition In Plan should also contain the following:
 - (a) the methodology for introducing the Supplier's Solution:
 - (b) a Transition Project Schedule;
 - (c) Transition resourcing, including allocation of Specified Personnel;
 - (d) a Transition Risk Register; and
 - (e) a Transition Acceptance Test Plan.

Tenderer response:

s47C



Transition Out Plan

The draft Transition Out Plan should provide for the competent, orderly and prudent transition of all Services in full to a Successor Supplier (if any). Tenderers should describe how the draft Transition Out Plan addresses risks that are inherent to the introduction of a Successor Supplier. It is expected that the Supplier will work with the Department to finalise an Transition Out Plan prior to the executing of an Agreement (if any).

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7. The Tenderer should provide a draft Transition Out Plan which sets out:
- (a) governance structure for the Transition Period;
 - (b) the assistance the Supplier will provide to the Department to undertake a procurement process;
 - (c) the steps the Supplier will take to ensure business continuity; and
 - (d) the allocation of responsibilities between each of the Parties during the Transition Period.
8. The draft Transition Out Plan should also contain details the following:
- (a) Transition Project Schedule;
 - (b) Transition resourcing, including allocation of Specified Personnel;
 - (c) Transition Risk Register; and
 - (d) Transition Acceptance Test Plan.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 13: Quality Management Plan

DRAFT QUALITY MANAGEMENT PLAN

The Tenderer should provide a draft Quality Management Plan. The draft Quality Management Plan should detail how the Tenderer plans to maintain quality in respect of all aspects of the Services.

The Quality Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 14: Security Risk Management Plan

DRAFT SECURITY RISK MANAGEMENT PLAN

The Tenderer should provide a draft Security Risk Management Plan. The Security Risk Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

1. The draft Security Risk Management Plan should describe:
 - (a) a System Security Plan;
 - (b) supply chain management for Hardware and Software to be supplied as part of the Services;
- 1.1 In preparing the Security Risk Management Plan, the Tenderer should have reference to, and describe how its procedures comply with, the following:
 - (a) the Protective Security Policy Framework available at <https://www.protectivesecurity.gov.au/overarching-guidance/Pages/Mandatory-requirements.aspx>; and
 - (b) the Information Security Manual produced by the Australian Signals Directorate available at <http://www.asd.gov.au/infosec/ism/>.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 15: Enquiry Handling Operations Plan

DRAFT ENQUIRY HANDLING OPERATIONS PLAN

The Tenderer should submit a draft Enquiry Handling Operations Plan. The draft Enquiry Handling Operations Plan should be substantially in the same form as the Department supplied Enquiry Handling Operations Plan template. The Enquiry Handling Operation Plan will be finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 16: Business Continuity Plan

BUSINESS CONTINUITY PLAN

The Tenderer should provide a draft Business Continuity Plan. The Business Continuity Plan of a successful Tenderer (if any) will be developed and finalised in consultation with DIBP prior to the executing of an Agreement (if any).

The draft Business Continuity Plan should describe how the Tenderer will ensure that the Services can be provided in the event of any unexpected or Unforeseen Event.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 17: Project Management Plan

PROJECT MANAGEMENT PLAN

The Tenderer should provide a draft Project Management Plan. The Project Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 18: Training Plan

TRAINING PLAN

The Tenderer should provide a draft Training Plan. The Training Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Note to Tenderers: The draft Training Plan should not exceed 500 words (one (1) A4 page).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 19: IT Operations Plan

IT OPERATIONS PLAN

The Tenderer should provide a draft IT Operations Plan. The IT Operations Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

The Tenderer should:

- (a) define required Client workflow including required service calls;
- (b) determine any differences required between existing services and those needed to support the workflow;
- (c) describe how it will design and build/enhance any required web services changes on both the Supplier Service Solution side and the Department system side. This may include new data storage and associated changes on the Department system side; and
- (d) testing and Transition.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 20: Resource Plan

RESOURCE PLAN

The Tenderer should provide a draft Resource Plan. The Resource Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

The Tenderer should:

- (a) identify all Specified Personnel and their availability over the Term of any resultant Agreement on an FTE basis;
- (b) describe its recruitment strategy;
- (c) describe its staff retention strategy; and
- (d) if there are Key Subcontractors, identify the material in paragraphs (a) and (c) above for the Key Subcontractor.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 21: Stakeholder Engagement Plan

STAKEHOLDER ENGAGEMENT PLAN

The Tenderer should provide a draft Stakeholder Engagement Plan. The Stakeholder Engagement Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 22: Procedures Manual

PROCEDURES MANUAL

The Tenderer should provide a draft Procedures Manual. The Procedures Manual of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 23: Intellectual Property Register

INTELLECTUAL PROPERTY REGISTER

The Tenderer should provide information on the details of any Intellectual Property Rights relevant to the Services (refer to clause 28 of the Terms and Conditions), including:

- (a) the nature of the Intellectual Property Rights;
- (b) the owner of the Intellectual Property Rights; and
- (c) terms and conditions of any licence of Third Party Intellectual Property Rights.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 24: Sources of Assistance

SOURCES OF ASSISTANCE

To ensure the Tenderer has not received any improper assistance the Tenderer should list all individuals and organisations who have informed the preparation of its Tender (refer **clause 30** of the RFT).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 25: RFT Question Form

All enquiries to the Department in connection with this RFT should be made using this form and lodged in the manner described at **clause 5** of this RFT.

Required Question Submission Information (to be completed by Tenderer)		
1	Date:	
2	Tenderer Name: (in full)	
3	RFT Part: (including reference to any relevant Schedule, Attachment, Appendix, Exhibit)	
4	RFT Page Number: (if applicable)	
5	Tenderer Question Form Sequence Number: (expressed as a three digit number, e.g. 001)	

Tenderer's Question



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PROCUREMENT PLAN

To: Acting First Assistant Secretary, Digital Transformation and Channels Division

Through: Assistant Secretary, Sourcing and Vendor Management Branch ^{s22(1)(a)}
(ii)

CLIENT ENQUIRY SERVICES PROJECT – DIBP RFT 11/16 CLIENT ENQUIRY SERVICES PROCUREMENT PLAN

Timing

Approval of this procurement plan is required by 10.00am on 7 June 2017 to support an approach to market by 9 June 2017.

Purpose

1. The purpose of this minute is to seek:
 - a. Your **approval** as the PGPAAs23(3) goods and services delegate to approach a shortlist of suppliers that responded to the initial Request for Expressions of Interest (REOI) for the provision of Innovative Client Enquiry Services, ^{s22(1)(a)(ii)}
 - b. Your **noting** that formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, if needed, will be sought following the evaluation of the proposal, but prior to entering into a formal arrangement.

Background

2. The Client Enquiry Services Project (CESP) is an approved initiative under the Digital Client Enquiry Enablement (DCEE) Programme (formerly known as the Service and Support Integration Programme), operating within the Channel Management Branch (CMB) of the Visa Delivery Transformation Division. The DCEE Programme is tasked to implement initiatives to enhance the Department's channel management and digital strategies. The CESP is seeking to identify potential business improvement opportunities and solutions that will allow the Department to:
 - a. Achieve and maintain an overall movement of clients from high-cost in-person channels to lower-cost self-service digital channels;
 - b. ^{s47C}
 - c. Achieve an overall improvement of Client Service Levels to meet industry standards and benchmarks.

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3. The Department of Immigration and Border Protection (DIBP) sought expressions of interest for the provision of innovative solutions and products to enhance DIBP's Client Enquiry Services, particularly its Service Centres, through an open market REOI process. You signed the REOI Evaluation Report on 24 January 2017.

Issues

4. A number of issues have been identified regarding the Request for Tender (RFT), including:
- a. Adverse reaction from Staff and Unions may present at any time during the procurement process. This may impact the Department's reputation if this is broadcast by the media.
 - b. The timeline for implementation is aggressive and has minimal contingency within it, therefore any delays in the process are likely to impact the indicative dates.

Method of Procurement

5. A multi-stage procurement process is being undertaken. Following the successful completion of Stage 1 (the REOI process), this procurement plan is for Stage 2 and is a Prequalified Tender method of procurement.
6. The stages, decision points and indicative timeframe for the whole procurement process is outlined below:
- a. Stage 1: A REOI was released via Open Tender to form the first stage of a multi-stage procurement. Respondents to the REOI were required to demonstrate their capability and capacity to provide the required services and products. The Department evaluated the responses in accordance with an approved Evaluation and Probity Plan (EPP), and you signed the subsequent REOI Evaluation Report on 24 January 2017.
 - b. Stage 2 (the subject of this Procurement Plan): DIBP will utilise the Service Centre Services short-list developed through Stage 1 to undertake an RFT process utilising a Prequalified Tender method of procurement.
 - c. The indicative timetable is as follows:

STAGE	ACTIVITY	INDICATIVE TIMETABLE
STAGE ONE	REOI Issued to Market	21 October 2016
	REOI Closed	2pm in Canberra, Australian Capital Territory on 17 November 2016
	Evaluation Report Signed	24 January 2017
STAGE TWO	Issue RFT to Short Listed Respondents	16 June 2017
	Conduct Industry Brief	20 June 2017
	RFT Closing Time	2pm in Canberra, Australian Capital Territory on 20 July 2017
	Complete RFT Evaluations and Report	25 August 2017
	Complete Negotiations/Execute Contract	17 November 2017
	Commence Transition	18 November 2017
	Full Service Provision	29 June 2018

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Service Requirements

7. The Department is seeking Tenders from the Stage 1 short-listed Respondents for the provision of contemporary best practice client enquiry services. The core area of scope is servicing telephone and email enquiries as currently provided by the Department's onshore and offshore Service Centres.
8. The Department is also seeking the implementation of models that may better meet the Department's objectives for its Client Enquiry Services across its other digital channels such as Social Media and Web Chat.
9. The scope of this RFT **does not** initially include:
 - a. Answering enquiries from any location other than the service centres;
 - b. Data or telephony carriage into the Department;
 - c. Providing migration advice to clients;
 - d. Answering enquiries requiring policy determinations, casework at overseas posts or high priority cases;
 - e. Visa, citizenship or trade permit processing services;
 - f. Managing the core applications that maintain the status of visa, citizenship or trade permit applications; or
 - g. Facilitating security clearances (through AGSVA) and ESCs to staff with access to visa, citizenship or trade permit applications.

s22
(1)(a)

10. s22(1)(a)(ii)

11.

12. s47C

Evaluation Criteria

13. The detailed evaluation criteria are currently being developed, however the responses will be broadly be assessed against the following evaluation criteria:
 - a. Respondent's technical capability against the business requirements;
 - b. Respondent's approach to the implementation of the Client Enquiry Services;
 - c. Respondent's capacity and organisational capability to provide the services;
 - d. Respondent's ability to identify and implement continuous improvement;
 - e. Respondent's financial and commercial viability;
 - f. Risk; and
 - g. Price.
14. A detailed Evaluation and Probity Plan (EPP) has been developed in parallel with this Procurement Plan. The EPP details the evaluation methodology and approach.

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For Official Use Only**Probity Plan**

15. Due to the complex nature of the procurement, a departmental probity adviser has been appointed and an EPP has been developed.

Value for Money

16. Value for money will be demonstrated through the utilisation of a competitive procurement process. The utilisation of a two stage procurement process supports the efficient, effective, economical and ethical use of public resources.
17. All compliant responses will be assessed against the approved evaluation criteria and compared with the financial estimate outlined above. The assessment will be recorded in the Evaluation Report.
18. This procurement will also consider the requirements for 'Value for money and broader benefits to the Australian economy' introduced in the Commonwealth Procurement Rules on 1 March 2017.

Risk Assessment

19. A risk assessment has been undertaken on this procurement and overall residual risk has been assessed as Medium. A copy of this is at Attachment A. All risks have been recorded and will be managed in the DTCD's Risk Register.

Consultation

20. The Procurement and Panel Management (PPM) Section has been consulted throughout the REOI process and in the preparation of this procurement plan. PPM has confirmed that the proposed method of procurement detailed above complies with the procurement requirements of the CPRs.
21. In addition the following individuals were consulted through the REOI and RFT development process:
 - a. The Hon Peter Dutton MP, Minister for Immigration and Border Protection
 - b. Michael Manthorpe, Dep Sec, Visa and Citizenship Services Group
 - c. Christine Dacey FAS, Visa Citizenship and Management
 - d. Peta Dunn, FAS, Visa Taskforce Reform
 - e. Murali Venugopal, FAS, People Division
 - f. Anne Leo, AS, Workforce Management
 - g. Mark Sawade, AS, Strategy Architecture and Innovation
 - h. Duane Stokes, AS, Sourcing and Vendor Management
 - i. Anthony Warnock, AS Visa, Citizenship and Digital Systems
 - j. Louise Smith, AS Channel Strategies and Management
 - k. Abi Bradshaw, Regional Director, Europe
 - l. s22(1)(a)(ii) Chief Migration Officer, London
 - m. Derek Bopping, Regional Director, Americas
 - n. s22(1)(a)(ii) Chief Migration Officer, Ottawa
 - o. s22(1)(a)(ii) Director, Visa Reform Taskforce
 - p. s22(1)(a)(ii) Director, Technology Strategy
 - q. s22(1)(a)(ii) a/g Director, Principal Legal Officer
 - r. s22(1)(a)(ii) Director, Procurement and Panel Management

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- s. s22(1)(a)(ii) Director, Employment Law and Litigation
- t. s22(1)(a)(ii), Group Finance Manager, DTCD
- u. s22(1)(a)(ii) Director DCEE
- v. s22(1)(a)(ii), Project Manager CESP
- w. s22(1)(a)(ii) Solution Architect, CESP
- x. s22(1)(a)(ii) Business Analyst, CESP

Recommendation

22. It is recommended that you as:

- a. A/FAS Digital Transformation and Channels, **approve** the approach to market as detailed in this procurement plan.

Approved / Not Approved

- b. A/FAS Digital Transformation and Channels, **note** that this is not a formal delegation and formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, as needed, will be sought following the evaluation of the responses, but prior to entering into a formal arrangement.

Noted / Please Discuss

s22(1)(a)(ii)

Tara Cavanagh

Director Service Centre Support

Acting FAS Digital Transformation and Channels

6 June 2017

June 2017

Contact Officer: s22(1)(a)(ii)

Phone: s22(1)(a)(ii)

Attachments:

- A. Risk Assessment

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ATTACHMENT A - RISK ASSESSMENT

Likelihood Scales			Likelihood	DIBP Risk Matrix					
CHANCE Qualitative assessment of likelihood	FREQUENCY the rate at which something occurs or is repeated over a given a sample rate	PROBABILITY a statistical or actuarial assessment of likelihood		Risk Matrix	CONSEQUENCE				
					Insignificant	Minor	Moderate	Major	Severe
The event and its consequences are expected to occur in most circumstances / has occurred in Department in the last year	Has occurred 9 or 10 times in the past 10 years in this organisation or circumstances are in train that will almost certainly cause it to happen	>95%		Almost Certain	Low	Medium	High	Extreme	Extreme
The event and its consequences will probably occur in most circumstances / has occurred in Department in the past	Has occurred more than 7 times over 10 years in this organization or in other similar organizations or circumstances have such that it is likely to happen in the next few years	>65%		Likely	Low	Medium	Medium	High	Extreme
The event and its consequences might occur at some time in most circumstances / has occurred at least once in the Department	Has occurred in this organization more than 3 times in the past 10 years or occurs regularly in similar organizations or is considered to have a reasonable likelihood of occurring in the next few years	>35%		Possible	Low	Low	Medium	High	High
The event and its consequences is not expected to occur in most circumstances / has not occurred in the Department but has occurred in other government entities	Has occurred 2 or 3 times over 10 years in this organization or similar organizations	<35%		Unlikely	Low	Low	Low	Medium	High
The event and its consequences will only occur in exceptional circumstances / is possible, but is not known to have occurred in the past	Has occurred or can reasonably be considered to occur only a few times in 100 years.	<5%	Rare	Low	Low	Low	Medium	Medium	

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Item	Risk	Cause	Likelihood	Consequence	Mitigation	(Final) Risk Level
1.	Sydney Service Centre's (SSC's) current service levels are not maintained	SSC Staff react negatively to the RFT and decide to leave their jobs earlier than desired which impacts morale and performance of remaining staff as well as increasing workloads on individuals.	Likely	Major	A staff assistance package will be considered to assist in retention of staff. Also, a Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	High
2.	Staff and Industrial consultation (engagement) process affects/delays RFT release and/or approvals	DIBP staff and/or CPSU negatively react to RFT messaging and create unrest and threaten industrial action	Possible	Minor	A Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	Low
3.	Responses to RFT are poor	The RFT does not clearly articulate what the Department is seeking	Possible	Minor	Information from Stage 1 of the procurement process will be used to refine the requirements for the RFT.	Low
4.	The RFT lacks detail that industry may require to provide sufficiently detailed responses.	Too many options constrain the ability for the Department to produce a detailed set of requirements to be responded to.	Likely	Moderate	The options will be socialised with various higher level stakeholders for a decision thus allowing refinement of a single requirements set for the RFT.	Low
5.	There is insufficient time to complete all activities associated with the RFT	Delays throughout the procurement process impact implementation timeframes.	Likely	Moderate	Executive sponsorship and engagement. Detailed and managed project plans.	Medium

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Australian Government
Department of Immigration and Border Protection

EVALUATION AND PROBITY PLAN

Request for Tender (DIBP RFT 11/16)

Client Enquiry Services

THIS DOCUMENT IS TO BE TREATED AS FOR-OFFICIAL-USE-ONLY AND NOT FOR RELEASE TO ANY PERSONS OTHER THAN THOSE DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION STAFF INVOLVED IN THIS PROCESS.

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For Official Use Only**INTRODUCTION**

This Evaluation and Probity Plan relates to the following process:

Number: DIBP RFT 11/16

Requirement: The Department is seeking Responses from potential suppliers shortlisted following an open approach to market Request for Expressions of Interest procurement process for the provision of innovative solutions to enhance the Department's Client Enquiry Services (the Services).

This Evaluation and Probity Plan sets out:

- PART A: The team that will be responsible for evaluating Responses to the Request for Tender (RFT), and their roles and responsibilities.
- PART B: The processes that will be used to ensure probity is maintained throughout the RFT process.
- PART C: The processes that will be used to evaluate Responses to the RFT process.
- PART D: The criteria that will be used to evaluate Responses to the RFT process.

1. Definitions

1.1. In this Evaluation and Probity Plan:

- (a) **Evaluation Committee** or **EC** means the committee set out in Part A of this Plan, who will evaluate the Responses.
- (b) **Evaluation Criteria** means the criteria, set out in Part D of this Plan and incorporated into the RFT Documentation, against which Responses will be evaluated.
- (c) **Evaluation Process** means the processes set out this Plan, which will be followed by the Evaluation Team to evaluate Responses.
- (d) **Evaluation Report** means the report to be provided from the Evaluation Committee to the Delegate, making recommendations about the RFT.
- (e) **Evaluation Team** means the team responsible for the evaluation of Responses, and consists of the Evaluation Committee, the Steering Committee, RFT support and specialist advisors.
- (f) **RFT** means the process by which the Department will seek supply of the Requirement identified above.

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- (g) **RFT Documentation** means the document seeking Responses to the RFT, and any associated document, which is published by DIBP in connection with the RFT.
- (h) **Respondent** means a tenderer that has submitted a Response to this RFT.
- (i) **Responses** means responses to the RFT submitted by tenderers.
- (j) **Steering Committee** or **SC** means the committee set out in Part A of this Plan, who will initially consider the draft Evaluation Report.

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For Official Use Only**PART A - EVALUATION TEAM****2. Evaluation Team**

2.1. The evaluation of all Responses will be the responsibility of the Evaluation Team. The Evaluation Team consists of:

- (a) an Evaluation Committee (EC);
- (b) a Steering Committee (SC);
- (c) specialist advisors to the EC; and
- (d) RFT support.

2.2. The EC consists of a Chair, a Technical Evaluation Team (TET) and a Commercial Evaluation Team (CET). The lead of the TET will be the Deputy EC Chair. EC members are:

- (a) s22(1)(a)(ii), Director, Service Centre Support – (Chair and TET Member);
- (b) s22(1)(a)(ii) Manager Sydney Service Centre – (Lead – TET, Deputy Chair);
- (c) s22(1)(a)(ii), Solution Architect, Channel Management Branch – (TET Member);
- (d) s22(1)(a)(ii) Business Analyst, Service Centre Support (TET Member);
- (e) TBA, Solution Architect, Visa Reform Implementation Project (TET Member);
- (f) TBA, Finance Manager, Finance Management Client Services – (Lead CET); and
- (g) s22(1)(a)(ii), Visa Reform Implementation Project – (CET Member).

2.3. The SC consists of:

- (a) Tara Cavanagh, A/g First Assistant Secretary, Visa Delivery Transformation Division - (Chair);
- (b) Renelle Forster, Assistant Secretary, Channel Management Branch – (Deputy Chair);
- (c) Steven Groves, Chief Finance Officer – (Member);
- (d) Steve McGlynn, A/g First Assistant Secretary, Legal Division – (Member);
- (e) Ian Laverock, Assistant Secretary, Procurements & Contracts Branch – (Member);
- (f) s22(1)(a)(ii) A/g Assistant Secretary, Strategy Architecture and Innovation Branch – (Member); and
- (g) Cheryl-anne Moy, First Assistant Secretary, Integrity Security & Assurance Division – (Observer);

2.4. The EC may obtain specialist advice as required. The following specialist advisors have been arranged for this RFT:

- (a) Legal Advisor: s22(1)(a)(ii), Senior Legal Officer, Commercial and Employment Law Branch;
- (b) Probity Advisor: s22(1)(a)(ii), Director, McGrathNicol;

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- (c) Business Requirements: s22(1)(a)(ii), Senior Business Analyst, Client Enquiry Services Project, Channel Management Branch;
- (d) Contract Management Advisor: s22(1)(a)(ii), Assistant Director Service Delivery Partners, Visa Reform Taskforce;
- (e) Service Centres' System Support Advisor: s22(1)(a)(ii) Director Digital Client Enquiry Support, Channel Management Branch;
- (f) s22(1)(a)(ii), Director Client Service Transformation, Channel Management Branch
- (g) Service Centres' Process Advisors: s22(1)(a)(ii), Senior Migration Officer, Ottawa and s22(1)(a)(ii), Service Support Manager, Sydney Service Centre;
- (h) Architecture Advisor: s22(1)(a)(ii), Director Technology Architecture, Strategy Architecture and Innovation Branch;
- (i) Transition Adviser: Assistant Director, s22(1)(a)(ii), Service Centre Support Channel Management Branch
- (j) Procurement Specialist: s22(1)(a)(ii) Client Enquiry Services Project, Channel Management Branch
- (k) Web Adviser: Director, s22(1)(a)(ii), Web Services and Correspondence, Channel Management Branch
- (l) ImmiAccount Adviser: s22(1)(a)(ii), Director, Visa & Citizenship Helpdesks, Channel Management Branch
- (m) Australian Border Protection Specialist: s22(1)(a)(ii), Superintendent, National Border Programme
- (n) Financial Capacity and Quality Specialist: KPMG.

2.5. RFT support will be provided by (as appropriate to the task):

- (a) Service Centre Support Section:
 - i. s22(1)(a)(ii); and
 - ii. s22(1)(a)(ii).
- (b) Sourcing and Vendor Management Branch:
 - i. s22(1)(a)(ii); and
 - ii. s22(1)(a)(ii).
- (c) Procurement and Contracts Branch:
 - i. s22(1)(a)(ii).

2.6. The DIBP Delegate for this RFT is:

- (a) Tara Cavanagh, A/g FAS Visa Delivery Transformation Division.

3. Roles and Responsibilities

- 3.1. All members of the Committees and other officers and advisors involved in the evaluation must be fully prepared for the Evaluation Process. This will involve, as a minimum, each person:

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- i. reading and ensuring that they understand the published RFT Documentation;
- ii. understanding the relationship between the Evaluation Criteria and the requirements in the published RFT Documentation; and
- iii. understanding the Evaluation Processes outlined in this Plan (as relevant to them).

3.2. Evaluation Committee

- (a) The EC will evaluate the submitted Responses, including:
 - i. perform a detailed examination and evaluation of the compliant Responses against the Evaluation Criteria;
 - ii. evaluate and make recommendations on any alternative proposals or options which are part of a compliant Response; and
 - iii. ensure that quality assurance and probity is maintained.
- (b) The EC is responsible for ensuring that the RFT process is open and transparent and that related actions by the Department are documented, defensible and substantiated in accordance with legislation and Government policy.
Any member of the EC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.3. Steering Committee

- (a) The SC will provide oversight of the RFT process, including:
 - i. review the draft Evaluation Report;
 - ii. provide Responses to the EC when necessary, including providing its comments and amendments regarding the draft Evaluation Report; and
 - iii. approving a recommendation for the Delegate's consideration.
- Any member of the SC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.4. Chairs of the Evaluation Committee and the Steering Committee

- (a) The respective committee Chairs will coordinate and manage the activities of the applicable Committee, ensuring that actions and procedures are instituted to support the established standards of probity and official conduct during the Evaluation Process.
- (b) In particular, the Chairs of the applicable Committee will:
 - i. identify and arrange resources to facilitate the objectivity in the Evaluation Process;
 - ii. monitor resources to ensure deadlines are met;
 - iii. manage adherence to this Plan;
 - iv. ensure suitable records of issues and correspondence are maintained to support the Evaluation Process;

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- v. provide regular progress reports to the Delegate and summary reports as required;
- vi. confirm that all evaluation issues have been addressed in the Evaluation Report;
- vii. separately document any dissenting views between Evaluation Team members;
- viii. ensure an audit trail is maintained;
- ix. ensure adherence to processes set out in this Evaluation and Probity Plan such that:
 - (i) Responses are objectively and consistently assessed in accordance with the published RFT Documentation;
 - (ii) confidential information is secured;
 - (iii) conflict of interest issues are identified and addressed; and
 - (iv) the RFT process is defensible; and
- x. refer queries, facilitate any examination of the processes, and liaise with the Legal Advisor and the Probity Advisor as required.
- (c) A quorum for the EC will consist of the Chair, or Deputy Chair, and two (2) other EC personnel; and
- (d) A quorum for the SC will consist of two (2) participants, regardless of position. When both the Chair and Deputy Chair are not in attendance the first action for the SC will be to agree an acting Chair.
- (e) If a Committee consists of an even number of members, the Chair will have a casting vote on any matter of dispute where the members are equally divided.

3.5. Deputy Chair of the Evaluation Committee and the Steering Committee

- (a) The person appointed Deputy Chair will be responsible for:
 - i. assisting the Chair where necessary;
 - ii. progressing activities in the Chair's absence; and
 - iii. having a casting vote in the absence of the Chair if required.

3.6. RFT support

- (a) The person(s) appointed as RFT support are responsible for:
 - i. publishing documents on AusTender;
 - ii. coordinating addenda releases, including clearances;
 - iii. downloading, registering and recording Responses from AusTender;
 - iv. screening all registered Responses to identify incomplete or non-compliant Responses with the RFT Documentation;
 - v. provide copies of RFT Register and Responses to the EC and SC, as set out in this Procurement and Evaluation Plan;
 - vi. co-ordinating meetings of the EC and SC;
 - vii. taking minutes and keeping an audit trail of all EC and SC meetings and decisions;

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- viii. arranging for specialist advice as required by the EC and SC;
 - ix. providing procurement and compliance advice; and
 - x. providing advice and guidance on the overall risk presented by the RFT process.
- (b) Persons providing RFT support are not part of the EC or SC and will not participate in any decisions involved in the Evaluation Process.

3.7. Specialist advisors:

- (a) **Legal Advisor:** The Legal Advisor will provide advice as requested to assist the EC and SC in relation to legal and regulatory matters and in ensuring that the legal aspects of all Responses are analysed uniformly, objectively and transparently. The Legal Advisor will provide advice as requested to facilitate the EC's assessment of Responses, particularly in its assessment of legal risks. The Legal Advisor may seek assistance from external legal sources to assist in providing these functions.
- (b) **Probity Advisor:** The Probity Advisor will assist the EC and SC in ensuring that all Responses are analysed fairly, uniformly and transparently, and will be responsible for providing a probity briefing to the Evaluation Team (see Part B of this Plan below). The Probity Advisor may seek assistance from external probity sources to assist in providing these functions.
- (c) **Contract Management Advisor:** If required, the Contract Management Advisor will assist the EC and SC in analysing the contract management issues presented by Responses.
- (d) **Service Centres' System Support Advisor:** If required, the Service Centres' System Support Advisor will assist the EC and SC in analysing the impacts on the support systems for the service centres presented by Responses.
- (e) **Service Centres' Process Advisors:** If required, the Service Centres' Process Advisors will assist the EC and SC in analysing the impacts on the business processes for the service centres presented by Responses.
- (f) **Architecture Advisor:** If required, an Architecture Advisor will assist the EC and SC in providing advice on the Architecture elements (including ICT and security) of the RFT.
- (g) **Cyber Security Advisor:** If required, a Cyber Security Advisor will assist the EC and SC in providing advice on the cyber security elements of the RFT.

3.8. Delegate:

- (a) The Delegate is responsible for:
 - i. considering the recommendations put forward by the EC as approved by the SC, following completion of the Evaluation Process;
 - ii. resolving any issues in relation to any conflict of interest which may be raised in relation to the Chairs of the EC and the SC or which cannot be resolved to the satisfaction of the Chair(s) and the Probity Advisor. The Delegate will be the final arbitrator in resolving issues of conflict of interest; and

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- iii. having considered the Evaluation Report and made all reasonable enquiries, making a decision on a preferred supplier and commencing contract negotiations with the intent of awarding a contract(s).

3.9. In addition to the specific roles and responsibilities identified above, Committee members and all other officers and advisors involved in the Evaluation Process must be fully aware of, and comply with, all requirements of:

- (a) the Commonwealth Procurement Rules (as updated from time to time: available at www.finance.gov.au), especially with respect to ethics and fair dealing with parties submitting, or invited to submit, Responses;
- (b) the Australian Government policy Ethics and Probity In Procurement (available at www.finance.gov.au);
- (c) DIBP's fraud control and anti-corruption plan (<https://bordernet.immi.local/LegalandRisk/Documents/fraud-control-anti-corruption.pdf>) ; and
- (d) all other relevant guidelines that relate to official conduct of Commonwealth public servants.

4. Addenda Handling

4.1. Roles and Responsibilities

- (a) In consultation with RFT support and the Probity Advisor, Channels Strategy and Management Branch (or other personnel as deemed necessary by the Delegate) will be responsible for the preparation of addenda to the RFT;
- (b) RFT support is responsible for quality assuring addenda, including ensuring Probity Advisor clearance has been obtained prior to publication of the addenda;
- (c) The Delegate is responsible for approving the release of addenda;
- (d) RFT support is responsible for publishing addenda on AusTender; and
- (e) The Probity Advisor is responsible for registering the addenda in the probity register.

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For Official Use Only**PART B - PROBITY ASPECTS****5. Process**

- 5.1. The evaluation will be conducted in a systematic and structured manner as set out in the published RFT Documentation and this Plan to ensure an effective and ethical RFT process can be demonstrated.
- 5.2. The purpose of the evaluation is to identify and document the Response(s) that satisfy the requirements specified in the published RFT Documentation.

6. Ethics and Fair Dealing

- 6.1. Paragraph 6 of the Commonwealth Procurement Rules states 'The Australian Government promotes the proper use and management of public resources'. As a result, it is essential that a framework of ethics and fair dealing is established from the start of the Evaluation Process. A specific aspect of ethical behaviour relevant to procurement is an overarching obligation to ensure that all Respondents are treated equitably. All Respondents are entitled to have their Responses assessed ethically and fairly and for this to be seen to have been done. Further to the requirements in paragraph 6.6 of the Commonwealth Procurement Rules, the following are critical to ensuring ethical behaviour in the RFT:

- (a) seeking prompt advice where probity issues arise;
- (b) not accepting gifts or hospitality;
- (c) being scrupulous in the use of public property; and
- (d) complying with all duties and obligations in:
 - i. the information privacy principles of the *Privacy Act 1988*;
 - ii. the security provisions of the *Crimes Act 1914*; and
 - iii. where applicable, the Australian Public Service's Code of Conduct as set out in the *Public Service Act 1999*.

- 6.2. All persons involved in the Evaluation Process must demonstrate complete impartiality to, and equitable treatment of, all Responses. A structured, objective, Evaluation Process applying a consistent methodology to all Responses will enable this to be achieved.

7. Adherence to Evaluation Criteria

- 7.1. In conducting the evaluation of the Responses, the EC and the SC must adhere to the published Evaluation Criteria.

8. Accountability and Transparency - Audit Trail

- 8.1. A clear audit trail is necessary to:
- (a) ensure that the process is fully documented;
 - (b) demonstrate that EC and SC members have acted objectively and logically; and
 - (c) substantiate the basis for the recommendations in the Evaluation Report.
- 8.2. All EC and SC meetings will be minuted and the Chair of the meeting will approve the minutes as an accurate record prior to the following meeting, and the minutes will then be confirmed as an accurate record at the following meeting. The minutes will be filed as part of the audit trail for the evaluation.

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- 8.3. The EC and SC will ensure that appropriate audit trails are maintained, including identification of who performs what action at what time. The EC will ensure that any action involving the allocation of, or amendment to, scores or independent reviews etc. is properly documented. The EC and SC will ensure sufficient documentation supporting its reasons for all decisions is maintained.

9. Gifts, Entertainment and Hospitality

- 9.1. During the Evaluation Process, Evaluation Team members must abide by the Department's Gifts, Entertainment and Hospitality policy (<https://bordernet.immi.local/FinancialManagement/Documents/accountability-authority-instructions/accountable-authority-instructions.pdf>).
- 9.2. Any offer of gifts, hospitality or entertainment must be reported to the EC or SC Chair immediately. If the offer of gifts or entertainment is made to the EC or SC Chair, the Chair must immediately report the offer to the Delegate.
- 9.3. The Chair (or Delegate), in consultation with the Probity Advisor, will determine what, if any, action is required in relation to any offer of gifts, hospitality or entertainment.

10. Conflicts of Interest

- 10.1. All persons involved in the RFT process (relevant persons) must abide by the Australian Public Service Code of Conduct requirements in respect of conflicts of interest.
- 10.2. In particular, all persons must declare any real or apparent conflict of interest to the EC or SC Chair as applicable (or to the Delegate if the conflict relates to the Chair) before commencing the Evaluation Process.
- 10.3. Conflict of interest declarations should be in the form set out at **Attachment A**.
- 10.4. A conflict of interest will exist if:
- (a) through any current or proposed future dealings or relationships with a Respondent or any related body, a relevant person or their family stands to gain a benefit or advantage from the outcome of the Evaluation Process; or
 - (b) there is any other reason why a relevant person may not deal with a Respondent in an objective manner.
- 10.5. All relevant persons must submit new conflict of interest declarations as soon as any circumstances change which may raise an actual or potential conflict of interest.
- 10.6. Upon receipt of a declaration of an actual or potential conflict of interest, the EC or SC Chair as applicable (or the Delegate if the conflict relates to the Chair) will decide in consultation with the Probity Advisor on the course of action to be taken to resolve the matter. If, in the opinion of the Chair (or Delegate) in consultation with the Probity Advisor, the conflict of interest is not able to be resolved, the person in relation to whom the conflict exists will be excluded from the RFT process (or a particular step(s) in the Evaluation Process).
- 10.7. The Chair may refer any conflict of interest issues to the Delegate, and must do so if the conflict of interest cannot be resolved in the first instance to the satisfaction of both the Chair and the Probity Advisor.

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For Official Use Only**11. Communication**

- 11.1. The procedures and protocols in this section will be implemented to minimise the risk of any improper communication occurring that could influence the probity of the RFT process.
- 11.2. All members of the Evaluation Team are required to comply with the procedures and protocols in this section.
- 11.3. In this RFT process, probity advice is to be provided to all Evaluation Team members as follows:
- (a) no discussions will be held with, or on behalf of, any potential Respondent about the RFT or the decision-making processes except in the manner provided for in this Plan or the published RFT Documentation;
 - (b) no potential Respondent will receive, or should be perceived to have received, more information than is available to all potential Respondents, nor will they receive any information in advance of its being made available generally to all potential Respondents;
 - (c) where appropriate, information provided in response to questions from a potential Respondent will be made available on AusTender (on a non-attributable basis). In addition, all alterations, corrections and notices in connection with the published RFT Documentation will also be made available on AusTender; and
 - (d) contents of all communication to potential Respondents after release of the RFT Documentation must be agreed by the Delegate and the Probity Advisor.
- 11.4. No assistance is to be provided to any potential Respondent, specifically:
- (a) details of any communication or approaches from or on behalf of potential Respondents will be fully documented;
 - (b) all communications from potential Respondents during the RFT process will be through the email address of the Contact Officer identified in the published RFT Documentation;
 - (c) potential Respondents will not be advised on how to develop their Responses apart from guidance that has been made publicly available to all potential Respondents;
 - (d) any past or intended communications with, or the conduct of, potential Respondents that may involve breaches of the probity of the process or alleged illegality, will be referred to the Probity Advisor for investigation and appropriate action; and
 - (e) Responses will not be communicated to people or positions outside those named in this Evaluation and Probity Plan.
- 11.5. All media contact must be managed and approved through the EC Chair. RFT support and the Probity Advisor will consult with the National Communications Branch as appropriate, in order to recommend a response for the Chair's approval.

12. Industry Briefing

- 12.1. An industry briefing will be offered to all potential Respondents prior to the closing time for Responses.

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- 12.2. Potential Respondents will be required to register their attendance at the industry briefing.
- 12.3. The industry briefing will take the form of a prepared presentation.
- 12.4. If there are any questions or further discussions at the industry briefing, those questions and answers will be released to all potential Respondents in the form of addenda to the published RFT Documentation.
- 12.5. The Probity Advisor may attend the industry briefing (if required) to ensure that probity requirements are met during and after the briefing.

13. Confidentiality

- 13.1. Responses will be treated as confidential as described in the published RFT Documentation.
- 13.2. Responses will be kept secure and will not be used so as to prejudice a fair, open and competitive process.
- 13.3. Commonwealth public servants who are members of the Evaluation Team will be required to complete a Confidentiality Acknowledgement (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.4. Any members of the Evaluation Team who are not Commonwealth public servants will be required to complete a Deed of Confidentiality (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.5. No discussion will occur with any person outside of the Evaluation Team and the Delegate regarding any aspect of the RFT or the Evaluation Process without the approval of the EC Chair in consultation with the Probity Advisor.

14. Security

- 14.1. Dedicated, lockable containers and secure IT storage devices will be used to store Responses and other RFT related documentation. The containers and devices will be maintained as a secure storage area in which all sensitive documentation will be kept when not in use by the Evaluation Team.
- 14.2. A copy of each Response will be made available to each EC member. No additional copies or copying of any part of the Responses will be permitted without the written authorisation of the EC Chair.
- 14.3. All copies of Responses and other material associated with the Responses and/or the evaluation will be kept in the secure storage areas or a designated evaluation room and will not be left unattended during the Evaluation Process or removed from the secure storage areas or the designated evaluation room without the express permission of the EC Chair.
- 14.4. RFT documentation will be marked as 'For-Official-Use-Only' or 'Sensitive'.

15. Probity Briefing and Signoffs

- 15.1. Apart from the Probity Advisor, all Evaluation Team members must attend an appropriate probity briefing prior to their involvement in the Evaluation Process. The probity briefing will be conducted by the Probity Advisor.
- 15.2. The Probity Advisor will be required to provide confirmation that all probity aspects of the RFT have been satisfactorily followed at the following stages of the Evaluation Process:
 - (a) before submission of this Plan to the Delegate;

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- (b) before the release of the RFT Documentation to the market;
- (c) before the exclusion of any Response from further consideration (including through a short listing process); and
- (d) before the submission of the final Evaluation Report to the Delegate.

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For Official Use Only**PART C - EVALUATION PROCESS****16. Overview**

- 16.1. The EC will evaluate Responses against the Evaluation Criteria and will consider the overall risk presented by the Respondents.
- 16.2. The Evaluation Process will be undertaken using the following steps:
- (a) Step 1: Receipt and Registration of Responses
 - (b) Step 2: Initial Screening
 - (c) Step 3: Technical Evaluation
 - (d) Step 4: Commercial Evaluation (non-technical Evaluation Criteria)
 - (e) Step 5: Overall Value for Money Assessment (including Viability and Risk)
 - (f) Step 6: Evaluation Report
 - (g) Step 7: Steering Committee's consideration of the Evaluation Report
 - (h) Step 8: Notification and Debriefing.

17. Timing

- 17.1. The proposed timetable for the process is set out in **Attachment C**. The dates in the timetable may change in accordance with the Department's requirements.

18. Step 1: Receipt and Registration of Responses

- 18.1. As soon as practicable after the closing time for the RFT, RFT support will download the Responses from AusTender.
- 18.2. A minimum of two RFT support personnel will register and record all Responses received before the closing time for the RFT on a Register. That Register will be signed by all personnel who conducted the receipt and registration of the Responses.
- 18.3. Any Responses received after the closing time for the RFT and any disputes or issues regarding receipt of Responses will be managed by RFT support and the Probity Advisor.
- 18.4. As soon as practicable after finalisation of the receipt and registration process, RFT support will provide the EC Chair with, or appropriate electronic access to, one copy of the Register and one copy of all Responses. The EC Chair will not distribute the Responses until the initial screening (Step 2) has been completed.

19. Step 2: Initial Screening

- 19.1. RFT support will screen all registered Responses to identify any that:
- (a) fail to comply with any Conditions of Participation identified in the RFT Documentation (other than financial and commercial viability which will be assessed at Step 5);
 - (b) fail to comply with any Minimum Content and Format Requirements identified in the RFT Documentation;
 - (c) contain unintentional errors of form; or
 - (d) are otherwise non-compliant with the RFT Documentation.

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- 19.2. Subject to subclause 19.5, the EC will exclude any Responses from further consideration which have not complied with any of the Conditions of Participation or any of the Minimum Content and Format Requirements.
- 19.3. In consultation with the Probity Advisor, the EC may also exclude a Response from further consideration where, in the EC's reasonable opinion, the Response is incomplete or is otherwise so clearly non-competitive, that it is likely to be evaluated so as to represent no material value for the Commonwealth. The EC may, however, decide to consider these Responses and seek clarification (in accordance with paragraph 19.6 below) if it believes that this is appropriate.
- 19.4. Screening is an ongoing process and is therefore subject to consultation with RFT support and the Probity Advisor. The EC may decide during any stage of the Evaluation Process to exclude a Response from further consideration on the basis that it falls within the categories described in this step.

Unintentional errors of form

- 19.5. If the EC considers that there are unintentional errors of form in a Response, the EC may ask the Respondent to correct or clarify the error. However, no material alteration or addition to that Response will be permitted. Any consideration to issue requests for correction or clarification of errors of form will be referred to the Probity Advisor for advice.

Clarifications

- 19.6. Clarification of Responses may be sought at any time during the Evaluation Process. All requests for clarification in relation to a Response will be in writing and from the Contact Officer specified in the published RFT Documentation, and answers from Respondents must be in writing and submitted in accordance with the RFT Documentation.
- 19.7. The EC Chair should consult the Probity Advisor before issuing any clarification question. Additional or new information must not be sought unless it is by way of clarification of elements of the information already submitted with the Response.
- 19.8. Clarifications will focus on addressing an ambiguity, error or omission that is relevant to the evaluation of a Response. Where a clarification is of a more general nature, then advice/information will be requested from all Respondents who have submitted a Response.

Distribution of Responses

- 19.9. The technical and financial evaluation of Responses will be undertaken independently of each other to ensure one element does not unduly influence the other. RFT support will be responsible for separating the technical and the financial elements of the Responses. In particular, no pricing detail is to be supplied to the TET.
- 19.10. RFT support will provide the EC Chair with, or appropriate electronic access to, the separated Responses. The EC Chair will provide the TET and CET with appropriate access to the Responses.

20. Step 3: Technical Evaluation

- 20.1. The TET lead, in consultation with the EC Chair, is responsible for ensuring the Technical Evaluation is completed in a timely manner and in accordance with this EPP.

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- 20.2. The Members of the TET will consider all relevant information for each technical Evaluation Criterion (**PART D** below sets out those Evaluation Criteria that are technical criteria) provided in each Response and conduct an objective analysis against each technical Evaluation Criterion. Where appropriate, the TET may use material tendered in response to one Evaluation Criterion in the evaluation of other Evaluation Criteria.
- 20.3. The TET may also make independent enquiries with any relevant person or entity about any matter that may be relevant to the evaluation of any Response, and consider the results of their enquiries. The independent enquiries must be consistent with this EPP and the TET must seek agreement from the EC Chair prior to making such independent enquiries. The TET, however, must not incorporate new information and/or material into a Response. If the enquiry result is adverse or contrary to what is provided in the Response, the EC Chair, in consultation with RFT support and the Probity Advisor, will consider the next appropriate step, within the framework of the RFT Documentation.
- 20.4. A minimum of two members of the TET will score each technical Evaluation Criterion for each Response. The TET members will then meet and discuss their individual scores, and agree a score for each technical Evaluation Criterion for each Response
- 20.5. If alternative Responses are received and accepted for evaluation (in accordance with the relevant provisions of the RFT Documentation), a technical evaluation of the alternative Responses will be undertaken upon completion of the technical evaluation of complying Responses.
- 20.6. Each TET member will assess each technical Evaluation Criterion using objective scoring. The 11 Point Evaluation Scale in **Attachment D** proposes a rating scale with commentary and guidance to assist members of the TET to remain objective in applying scoring for the technical Evaluation Criteria. The evaluation scale is intended as a guide for the TET members to determine the score to be given to a Response.
- 20.7. Weightings will then be applied to each score for each technical Evaluation Criteria in accordance with the weightings specified in **PART D** below.

Technical evaluation risks

- 20.8. Each member of the TET is responsible for recording all risks identified through the technical evaluation process. Any risks that are not addressed or mitigated through site visits, presentations or referee checks must be presented to the EC for consideration in assessing Value for Money.

Site visits, presentations, referee checks

- 20.9. After reviewing the Responses, in order to appropriately and completely evaluate the Response, the TET may decide to:
- (a) conduct visits to Respondents' sites;
 - (b) seek presentations by Respondents;
 - (c) conduct referee checks;
 - (d) discuss with, or visit, customers or subcontractors of Respondents, whether or not the customers are provided as referees by a Respondent; and/or
 - (e) carry out independent enquiries in relation to any matter that may be relevant to the evaluation of a Response.

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- 20.10. The EC may require Respondents to give presentations of their Response. Presentations may be held in conjunction with site visits. The TET will confirm schedule times with the relevant Respondents.
- 20.11. Where interviews or presentations are conducted, the EC will decide which questions will be asked of all Respondents and, if applicable, which questions will apply to specific Respondents.
- 20.12. The EC Chair, in consultation with the lead of the TET, will designate a member(s) of the TET to undertake referee checks if required. Before any referee checks are undertaken, the EC will agree a list of questions that will be asked as part of each referee check and the format that will be used to record answers.
- 20.13. Following the conclusion of any site visits, presentations, referee checks and/or obtaining of further information through independent enquiries, the TET will, in light of the further information received, review and, where applicable, revise scores for the technical Evaluation Criteria.

Setting aside

- 20.14. At any stage of the technical evaluation the TET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 20.15. At any stage of the technical evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

21. Step 4: Commercial Evaluation (non-technical Evaluation Criteria)

- 21.1. The CET lead, in consultation with the EC Chair, is responsible for ensuring the Commercial Evaluation is completed in a timely manner and in accordance with this EPP.
- 21.2. The Commercial Evaluation consists of:
- (a) a Financial Assessment;
 - (b) a financial viability assessment; and
 - (c) a commercial assessment.
- 21.3. The Commercial Evaluation is to be conducted independently of the Technical Evaluation; however it may be conducted concurrently with the Technical Evaluation.

Financial assessment

- 21.4. The purpose of the Financial Assessment is to ensure that pricing provided in the Responses is normalised across the Responses to allow a fair and valid assessment of the costs for each Response in order to undertake a Value for Money assessment.
- 21.5. Financial Assessments may be conducted only on Respondents that have not been previously set aside.

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For Official Use Only***Financial viability assessment***

- 21.6. The CET members of the EC will also undertake and document financial viability assessments based on standard industry practice, utilising external financial resources to assist in this process.
- 21.7. Financial viability assessments may be conducted only on Respondents that have not been previously set aside.
- 21.8. The CET members will discuss their findings for each Respondent with the EC Chair, who may direct further work to be done if the EC Chair is not satisfied with the level of justification for the assessed financial viability of any Respondent.

Commercial assessment

- 21.9. The commercial assessment will identify the commercial risks associated with each Response including any proposed amendments to the commercial terms proposed in the draft contract issued with the RFT.

Setting aside

- 21.10. At any stage of the financial evaluation the CET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 21.11. At any stage of the financial evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (d) fully document its reasons as to how and why it has set aside the Response(s);
 - (e) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (f) inform the SC of the proposed setting aside of the Response.

22. Step 5: Overall Value for Money Assessment (including Viability and Risk)***Proposed confidential information***

- 22.1. Where a Response indicates that a potential supplier wishes the Department to keep certain information confidential, the EC may refer the matter to the Legal Advisor for advice. The Legal Advisor will advise on the issues raised and assess whether these concerns are likely to be able to be resolved or represent a significant risk to the Department.
- 22.2. The EC will consider any report of the Legal Advisor.

Assessing risks

- 22.3. In determining the risk profile presented by each Respondent, the EC will assess risk in terms of the likelihood of the Respondent achieving what has been offered in its Response and any other risk associated with the Response. Guidance on the risk assessment process is in **Attachment E**.
- 22.4. The EC members will need to reach a consensus as to whether a risk actually exists, the likelihood of the risk occurring and the consequences for the Department if the identified risk eventuates.

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For Official Use Only***Risk and score revision***

- 22.5. Following the completion of the risk assessment process, the EC will review and, where applicable, revise scores or rankings for each Response.

Setting aside

- 22.6. If, in the opinion of the EC, a risk is deemed to actually exist and the mitigated consequence(s) of that risk is too great for the Department to accept, the EC may set aside a Response from further evaluation. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

Value for Money

- 22.7. Following the completion of the independent Technical and non-Technical evaluations of the Responses, the EC will undertake an overall assessment of Value for Money taking into account the results of the Technical evaluation, the non-Technical evaluation and all identified risks (including the financial viability of the Respondents).
- 22.8. The EC will determine a ranking of the Responses based on the overall value for money assessment.
- 22.9. The EC may recommend one or more preferred tenderers to enter into contract negotiations with including identifying risks and key expected outcomes from any subsequent negotiation.

23. Step 6: Evaluation Report

- 23.1. The EC will prepare an Evaluation Report, which includes the following:
- (a) an executive summary (if the EC considers this would be useful);
 - (b) an outline of the RFT processes followed by the EC;
 - (c) evaluations with scores, any comparative evaluation adjustments used during the evaluation and the overall assessment of Responses;
 - (d) a summary of the EC's assessment of each Response; and
 - (e) recommendations as to the preferred tenderer(s).
- 23.2. The EC may submit a draft Evaluation Report to the SC and/or the Probity Advisor for guidance on its development.
- 23.3. Members of the EC will sign the Evaluation Report to indicate their concurrence with it. Dissenting members may submit an alternative report.
- 23.4. The EC Chair will submit the Evaluation Report to the Probity Advisor for endorsement.

24. Step 7: Steering Committee's consideration of the Evaluation Report

- 24.1. After receiving endorsement from the Probity Advisor, including making any revisions this advisor considers necessary, the EC Chair must submit the Evaluation Report to the SC for endorsement.

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- 24.2. The SC must consider the Evaluation Report and any alternative reports. Where the SC seeks to make material alterations to the Evaluation Report, the SC Chair will discuss these alterations with the EC.
- 24.3. The SC Chair will annotate any changes on the Evaluation Report and seek endorsement of the SC. The members of the SC will indicate their endorsement of the Evaluation Report, including any annotated changes, by signing the report. Once endorsed by the SC, the SC Chair must resubmit the draft Evaluation Report to the Probity Advisor for their endorsement.
- 24.4. The Evaluation Report, as endorsed by the SC and the Probity Advisor, will then be submitted to the Delegate for approval.

25. Step 8: Notification and Debriefing

- 25.1. Notification of the outcomes of the RFT will be undertaken in various stages for the purposes of letting Respondents know the outcome as soon as practicable.
- 25.2. Note: Respondents are not to be informed that they are unsuccessful until a contract has been awarded.

Responses set aside

- 25.3. Once the SC has agreed to set aside a Response, the EC Chair will be responsible for advising the Respondent in writing that they are currently not the preferred tenderer.

Preferred Tenderer

- 25.4. Once the Delegate has selected one or more preferred tenderers, the EC Chair will be responsible for informing the preferred tenderer(s) of their preferred tenderer status and inviting them to negotiations. The EC Chair will be responsible for advising all other Respondents in writing that they are currently not the preferred tenderer.

Contract award

- 25.5. Once a contract has been awarded, the EC Chair will be responsible for notifying all Respondents in writing, including giving the opportunity to attend a verbal debriefing.

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For Official Use Only**PART D - EVALUATION CRITERIA****26. Evaluation Criteria**

- 26.1. As set out in Part C, the Responses will be evaluated by the TET and CET members of the EC. The TET will evaluate the responses against the weighted Technical Criteria. The CET will evaluate the Responses against the unweighted Non-Technical Criteria.
- 26.2. Compliance checks will be undertaken by RFT support against the Conditions for Participation. In addition to the Conditions for Participation, requirements identified as 'must' are also mandatory in accordance with the Commonwealth Procurement Rules.
- 26.3. The technical Evaluation Criteria are broken into Evaluation Sub-Criteria to assist in evaluating the responses. Each of the requirements in the Statement of Requirements will be mapped to an Evaluation Criteria or Evaluation Sub-Criteria. The weightings of the Evaluation Sub-Criteria will not be published to minimise the risk that Respondents will neglect to provide adequate responses to lower weighted sub-criteria.

27. Conditions for Participation

- 27.1. The Conditions for Participation for this RFT are:
- (a) The Tenderer must submit the Tender by the Closing Time;
 - (b) The Tenderer must be financially and commercially viable to perform the Services;
 - (c) The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim;
 - (d) The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the Charter of the United Nations Act 1945 (Cth); and
 - (e) The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the Charter of United Nations (Dealing with Assets) Regulations 2008 (Cth).

28. Minimum Content and Format Requirements

- 28.1. The Minimum Content and Format Requirements for this RFT are:
- (a) The Tenderer must Tender for all the Services in the Statement of Requirement. No Tenders for only part of the Services set out in the Statement of Requirement will be allowed;
 - (b) The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in the Tenderer Response Forms;
 - (c) The Tenderer must comply with AusTender lodgement requirements and procedures; and
 - (d) Measurements in the Tender must be expressed in Australian legal units of measurement.

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For Official Use Only**29. Technical Criteria**

29.1. The technical Evaluation Criteria for this RFT are:

No.	Evaluation Criteria	Weighting
1	Technical Capability	65%
2	Implementation Approach	20%
3	Capacity and Organisational Capability	7.5%
4	Continuous Improvement	7.5%

30. Non-Technical Criteria

30.1. The non-technical Evaluation Criteria (which are unweighted) are:

No.	Evaluation Criteria
5	Price
6	Risk (including financial viability and commercial risks)

30.2. The non-technical Evaluation Criteria will be considered in terms of the risk that the Response represents to the Department and will be used to determine the overall Value for Money of the Response.

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Agreement and Approval of the Plan

Agreement to the Evaluation and Probity Plan by Steering Committee and Evaluation Committee

I agree to the terms and conditions of this Plan.

Evaluation Committee

s22(1)(a)(ii)

(Chair and TET Member)

(signature)

(date)

s22(1)(a)(ii)

(Deputy Chair – TET Lead)

(signature)

(date)

s22(1)(a)(ii)

(TET Member)

(signature)

(date)

s22(1)(a)(ii)

(TET Member)

(signature)

(date)

s22(1)(a)(ii)

(CET Lead)

(signature)

(date)

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Steering Committee

Tara Cavanagh (Chair) Renelle Forster (Deputy Chair) Steven Groves (Member)

_____	_____	_____
(signature)	(signature)	(signature)
_____	_____	_____
(date)	(date)	(date)

Steve McGlynn (Member) Ian Laverock (Member) s22(1)(a)(ii) (Member)

_____	_____	_____
(signature)	(signature)	(signature)
_____	_____	_____
(date)	(date)	(date)

Cheryl-anne Moy (Observer)

(signature)

(date)

Approval of Delegate

I, the Delegate, approve the contents of this Plan.
Tara Cavanagh
(A/FAS Visa Delivery Transformation Division)

(signature)

(date)

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For Official Use Only**Attachment A****Conflict of Interest Declaration**

I have been asked to disclose any interest that I may have which would preclude me from undertaking my role as a member of the Evaluation Committee (EC) or as an advisor to the EC in the procurement process being undertaken by the Department of Immigration and Border Protection (the **Department**) for the procurement of:

I understand that a conflict of interest can arise out of any relationship, either personal, financial or professional, with any potential respondent, or employee or advisor of any potential respondent, such that a potential respondent, or any employee or advisor of a potential respondent, or myself or a member of my direct family, could benefit personally in some way from the outcome of the procurement process.

To the best of my knowledge and belief I have not had, and do not have any relationship which may give rise to a conflict of interest. **[Delete if not applicable.]**

I declare below relationships which may give rise to a conflict of interest at the attachment to this declaration. **[Delete if not applicable.]**

I am aware of the Department's requirement for strict probity in the procurement process and if I subsequently discover that there is a relationship with any potential respondent which does or may constitute a conflict of interest, I will immediately report it to the EC chair.

I will also immediately report to the EC Chair any direct or indirect contact that I have with any potential respondent, or any employee or advisor of any potential respondent, which is not officially authorised, including any approach made to me in the way of a direct or implied offer of future employment or other benefit.

Dated the day of 20

Signed:

Name:

Address:

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For Official Use Only**Attachment B – Confidentiality Forms****Deed of Confidentiality**

This Deed Poll is made by:

Name: _____

Address: _____ **(Participant)**

For the benefit of the Commonwealth of Australia as represented by the Department of Immigration and Border Protection **(Department)**

- A. The Participant is performing duties associated with the Department's procurement process for _____ **(Procurement Process)**.
- B. The Participant will access Confidential Information during the Procurement Process.
- C. Confidential Information means information (however stored) that:
 - (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
 but does not include information that:
 - (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.
1. The Participant undertakes in respect of the Confidential Information:
 - (a) to keep it secret;
 - (b) to use it solely for the Procurement Process;
 - (c) to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
 - (d) not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
 - (e) not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
 - (f) to obey the directions of the Department and its representatives in dealing with the Confidential Information;
 - (g) to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
 - (h) to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

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Attachment C

RFT EVALUATION TIMETABLE

Task to be Completed	By Whom	By When
Finalise Procurement Plan	s22(1)(a)(ii)	24 May 17
Finalise Evaluation and Probity Plan		24 May 17
Finalise Procurement Documentation		31 May 17
Obtain Legal, Probity Advisor and Delegate clearance of documentation, resource arrangements		31 May 17
Conduct probity briefings		As required
Receive conflict of interest and confidentiality forms (as required) from Evaluation Team members		As required
Procurement Documentation released	Policy, Panels and Reporting Section	16 Jun 17
Set up document management arrangements such as TRIM storage location/s	s22(1)(a)(ii)	16 Jun 17
Receive Responses	Policy, Panels and Reporting Section	20 Jul 17
Register Responses and complete compliance check	Policy, Panels and Reporting Section	21 Jul 17
Provide Evaluation Committee with TRIM Location/s for Responses	s22(1)(a)(ii)	24 Jul 17
Assess Responses against Evaluation Criteria (including financial viability evaluation)	Evaluation Committee	24 Jul – 25 Aug 17
Provide draft Evaluation Report to Probity Advisor and Legal Advisor	Evaluation Committee, Chair	26 Aug 17
Finalise Evaluation Report	Evaluation Committee	27 Aug 17
Submit Evaluation Report to Steering Committee	Evaluation Committee, Chair	28 Aug 17
Submit Evaluation Report to Delegate	Steering Committee	1 Sep 17
Conduct negotiations for contractual arrangements	TBD	11 Sep – 14 Nov 17
Advise successful and unsuccessful supplier(s)	Evaluation Committee, Chai	17 Nov 17

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Attachment D

11 POINT EVALUATION SCALE

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As part of the evaluation of Responses against each Evaluation Criterion, the Evaluation Committee (EC) member will identify and document any risks associated with each Respondent achieving the claims set out in its Response. The EC will reach a consensus as to whether a risk actually exists and what the nature of that risk might be.

Following the identification of risks, an assessment of risk will be undertaken which involves considering the consequence of the risk and the likelihood of each risk occurring. These will then be combined to determine the overall risk.

All decisions will be appropriately documented for use throughout this evaluation process.

The overall risk will then be considered in the context of the rating scale included in section 22 of this Plan.

Determination of Risk Consequence

The consequence of identified risks will be classified as Severe, Major, Moderate, Minor or Insignificant depending on the nature of the identified risks. Guidance on classifying risks is given by the following table:

Consequence	Description
Severe	<ul style="list-style-type: none"> – would cause significant financial loss – threaten the Department's viability – result in extreme political / community sensitivity and media scrutiny – result in a Commission of Inquiry or Inquest – result in death or permanent disability
Major	<ul style="list-style-type: none"> – would cause major financial loss – threaten the continuation of a program or project – impact adversely on the achievement of the Department's strategic objectives – result in significant political / community sensitivity and media scrutiny – result in Ministerial intervention – require audit – result in life threatening or serious injury which is irreversible requiring medical attention and ongoing treatment
Moderate	<ul style="list-style-type: none"> – would cause moderate to high financial loss – would not threaten a program or project but could result in a significant review – result in some political / community sensitivity and media scrutiny – result in parliamentary questions – require management initiated reviews – some impact on the Department's operational objectives – result in injury or health impacts that are reversible but may require medical attention but limited ongoing treatment

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Consequence	Description
Minor	<ul style="list-style-type: none"> – would cause medium to low financial loss – could require action to offset the impact on some aspect of a program or project – limited impact on the Department's operational objectives – limited political / community sensitivity – management reporting required – may result in minor injury or reversible health damage which may require ongoing treatment
Insignificant	<ul style="list-style-type: none"> – would have an insignificant or low financial loss – any consequences can be dealt with by routine operations or management action – no reputation damage – any injuries can be dealt with through primary first aid

Assessment of Risk Likelihood

This assessment is based on the likelihood that the risk will occur in light of the Response provided by each Respondent. Guidance on this assessment is given in the following table:

Likelihood	Description
Almost certain	Can be expected to occur in most circumstances within the next year
Likely	Will probably occur in most circumstances within the next two to five years
Possible	May occur in most circumstances within the next five to 10 years
Unlikely	Could occur at sometime within the next 10 to 20 years
Rare	Expected to occur only in the most exceptional circumstances

Risk Matrix Table

The risk matrix table shows the relationship between the likelihood and the consequences /impact of risk to produce an overall level or risk

Likelihood	Consequences				
	Extreme	Major	Moderate	Minor	Insignificant
Almost certain	High	Significant	Significant	Moderate	Moderate
Likely	High	Significant	Moderate	Moderate	Moderate
Possible	Significant	Significant	Moderate	Moderate	Low
Unlikely	Significant	Moderate	Moderate	Low	Low
Rare	Moderate	Moderate	Low	Low	Low

High	avoid undertaking the activity OR implement new controls Risk plan must be signed off at executive level
Significant	consider suspending or ending activity OR implementing additional controls Senior Executive attention to risk plan is required
Moderate	ensure that controls are in place and operating and that management responsibility for controls is agreed
Low	manage by routine procedures and accountabilities

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Australian Government
Department of Immigration and Border Protection

EVALUATION AND PROBITY PLAN

Request for Tender (DIBP RFT 11/16)

Client Enquiry Services

THIS DOCUMENT IS TO BE TREATED AS FOR-OFFICIAL-USE-ONLY AND NOT FOR RELEASE TO ANY PERSONS OTHER THAN THOSE DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION STAFF INVOLVED IN THIS PROCESS.

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INTRODUCTION

This Evaluation and Probity Plan relates to the following process:

Number: DIBP RFT 11/16

Requirement: The Department is seeking Responses from potential suppliers shortlisted following an open approach to market Request for Expressions of Interest procurement process for the provision of innovative solutions to enhance the Department's Client Enquiry Services (the Services).

This Evaluation and Probity Plan sets out:

- PART A: The team that will be responsible for evaluating Responses to the Request for Tender (RFT), and their roles and responsibilities.
- PART B: The processes that will be used to ensure probity is maintained throughout the RFT process.
- PART C: The processes that will be used to evaluate Responses to the RFT process.
- PART D: The criteria that will be used to evaluate Responses to the RFT process.

1. Definitions

1.1. In this Evaluation and Probity Plan:

- (a) **Evaluation Committee** or **EC** means the committee set out in Part A of this Plan, who will evaluate the Responses.
- (b) **Evaluation Criteria** means the criteria, set out in Part D of this Plan and incorporated into the RFT Documentation, against which Responses will be evaluated.
- (c) **Evaluation Process** means the processes set out this Plan, which will be followed by the Evaluation Team to evaluate Responses.
- (d) **Evaluation Report** means the report to be provided from the Evaluation Committee to the Delegate, making recommendations about the RFT.
- (e) **Evaluation Team** means the team responsible for the evaluation of Responses, and consists of the Evaluation Committee, the Steering Committee, RFT support and specialist advisors.
- (f) **RFT** means the process by which the Department will seek supply of the Requirement identified above.

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- (g) **RFT Documentation** means the document seeking Responses to the RFT, and any associated document, which is published by DIBP in connection with the RFT.
- (h) **Respondent** means a tenderer that has submitted a Response to this RFT.
- (i) **Responses** means responses to the RFT submitted by tenderers.
- (j) **Steering Committee** or **SC** means the committee set out in Part A of this Plan, who will initially consider the draft Evaluation Report.

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PART A - EVALUATION TEAM**2. Evaluation Team**

2.1. The evaluation of all Responses will be the responsibility of the Evaluation Team. The Evaluation Team consists of:

- (a) an Evaluation Committee (EC);
- (b) a Steering Committee (SC);
- (c) specialist advisors to the EC; and
- (d) RFT support.

2.2. The EC consists of a Chair, a Technical Evaluation Team (TET) and a Commercial Evaluation Team (CET). The lead of the TET will be the Deputy EC Chair. EC members are:

- (a) s. 22(1)(a)(ii) Director, Service Centre Support – (Chair and TET Member);
- (b) s. 22(1)(a)(ii) Manager Sydney Service Centre – (Lead – TET, Deputy Chair);
- (c) s. 22(1)(a)(ii) Solution Architect, Channel Management Branch – (TET Member);
- (d) s. 22(1)(a)(ii) Business Analyst, Service Centre Support - (TET Member);
- (e) s. 22(1)(a)(ii) Finance Manager, Policy Group Finance – (Lead CET); and
- (f) s. 22(1)(a)(ii) Visa Reform Implementation Project – (CET Member).

2.3. The SC consists of:

- (a) Tara Cavanagh, A/g First Assistant Secretary, Visa Delivery Transformation Division - (Chair);
- (b) Renelle Forster, Assistant Secretary, Channel Management Branch – (Deputy Chair);
- (c) Steven Groves, Chief Finance Officer – (Member);
- (d) Steve McGlynn, A/g First Assistant Secretary, Legal Division – (Member);
- (e) Ian Laverock, Assistant Secretary, Procurements & Contracts Branch – (Member);
- (f) s. 22(1)(a)(ii) A/g Assistant Secretary, Strategy Architecture and Innovation Branch – (Member); and
- (g) Cheryl-anne Moy, First Assistant Secretary, Integrity Security & Assurance Division – (Observer);

2.4. The EC may obtain specialist advice as required. The following specialist advisors have been arranged for this RFT:

- (a) Legal Advisor: s. 22(1)(a)(ii) Senior Legal Officer, Commercial and Employment Law Branch;
- (b) Probity Advisor: s. 22(1)(a)(ii) Director, McGrathNicol;

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- (c) Business Requirements: s. 22(1)(a)(ii) Senior Business Analyst, Client Enquiry Services Project, Channel Management Branch;
- (d) Contract Management Advisor: s. 22(1)(a)(ii) Assistant Director Service Delivery Partners, Visa Reform Taskforce;
- (e) Service Centres' System Support Advisor: s. 22(1)(a)(ii) Director Digital Client Enquiry Support, Channel Management Branch;
- (f) s. 22(1)(a)(ii) Director Client Service Transformation, Channel Management Branch
- (g) Service Centres' Process Advisors: s. 22(1)(a)(ii) Senior Migration Officer, Ottawa and s. 22(1)(a)(ii) Service Support Manager, Sydney Service Centre;
- (h) Architecture Advisor: s. 22(1)(a)(ii) Director Technology Architecture, Strategy Architecture and Innovation Branch;
- (i) Transition Adviser: Assistant Director, s. 22(1)(a)(ii) Service Centre Support Channel Management Branch
- (j) Procurement Specialist: s. 22(1)(a)(ii) Client Enquiry Services Project, Channel Management Branch
- (k) Web Adviser: Director, s. 22(1)(a)(ii) Web Services and Correspondence, Channel Management Branch
- (l) ImmiAccount Adviser: s. 22(1)(a)(ii) Director, Visa & Citizenship Helpdesks, Channel Management Branch
- (m) Australian Border Protection Specialist: s. 22(1)(a)(ii) Superintendent, National Border Programme
- (n) Financial Capacity and Quality Specialist: KPMG.

2.5. RFT support will be provided by (as appropriate to the task):

- (a) Service Centre Support Section:
 - i. s. 22(1)(a)(ii) and
 - ii. s. 22(1)(a)(ii)
- (b) Sourcing and Vendor Management Branch:
 - i. s. 22(1)(a)(ii) and
 - ii.
- (c) Procurement and Contracts Branch:
 - i. s. 22(1)(a)(ii)

2.6. The DIBP Delegate for this RFT is:

- (a) Tara Cavanagh, A/g FAS Visa Delivery Transformation Division.

3. Roles and Responsibilities

- 3.1. All members of the Committees and other officers and advisors involved in the evaluation must be fully prepared for the Evaluation Process. This will involve, as a minimum, each person:

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- i. reading and ensuring that they understand the published RFT Documentation;
- ii. understanding the relationship between the Evaluation Criteria and the requirements in the published RFT Documentation; and
- iii. understanding the Evaluation Processes outlined in this Plan (as relevant to them).

3.2. **Evaluation Committee**

- (a) The EC will evaluate the submitted Responses, including:
 - i. perform a detailed examination and evaluation of the compliant Responses against the Evaluation Criteria;
 - ii. evaluate and make recommendations on any alternative proposals or options which are part of a compliant Response; and
 - iii. ensure that quality assurance and probity is maintained.
- (b) The EC is responsible for ensuring that the RFT process is open and transparent and that related actions by the Department are documented, defensible and substantiated in accordance with legislation and Government policy.

Any member of the EC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.3. **Steering Committee**

- (a) The SC will provide oversight of the RFT process, including:
 - i. review the draft Evaluation Report;
 - ii. provide Responses to the EC when necessary, including providing its comments and amendments regarding the draft Evaluation Report; and
 - iii. approving a recommendation for the Delegate's consideration.

Any member of the SC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.4. **Chairs of the Evaluation Committee and the Steering Committee**

- (a) The respective committee Chairs will coordinate and manage the activities of the applicable Committee, ensuring that actions and procedures are instituted to support the established standards of probity and official conduct during the Evaluation Process.
- (b) In particular, the Chairs of the applicable Committee will:
 - i. identify and arrange resources to facilitate the objectivity in the Evaluation Process;
 - ii. monitor resources to ensure deadlines are met;
 - iii. manage adherence to this Plan;
 - iv. ensure suitable records of issues and correspondence are maintained to support the Evaluation Process;

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- v. provide regular progress reports to the Delegate and summary reports as required;
 - vi. confirm that all evaluation issues have been addressed in the Evaluation Report;
 - vii. separately document any dissenting views between Evaluation Team members;
 - viii. ensure an audit trail is maintained;
 - ix. ensure adherence to processes set out in this Evaluation and Probity Plan such that:
 - (i) Responses are objectively and consistently assessed in accordance with the published RFT Documentation;
 - (ii) confidential information is secured;
 - (iii) conflict of interest issues are identified and addressed; and
 - (iv) the RFT process is defensible; and
 - x. refer queries, facilitate any examination of the processes, and liaise with the Legal Advisor and the Probity Advisor as required.
- (c) A quorum for the EC will consist of the Chair, or Deputy Chair, and two (2) other EC personnel; and
- (d) A quorum for the SC will consist of two (2) participants, regardless of position. When both the Chair and Deputy Chair are not in attendance the first action for the SC will be to agree an acting Chair.
- (e) If a Committee consists of an even number of members, the Chair will have a casting vote on any matter of dispute where the members are equally divided.

3.5. **Deputy Chair of the Evaluation Committee and the Steering Committee**

- (a) The person appointed Deputy Chair will be responsible for:
- i. assisting the Chair where necessary;
 - ii. progressing activities in the Chair's absence; and
 - iii. having a casting vote in the absence of the Chair if required.

3.6. **RFT support**

- (a) The person(s) appointed as RFT support are responsible for:
- i. publishing documents on AusTender;
 - ii. coordinating addenda releases, including clearances;
 - iii. downloading, registering and recording Responses from AusTender;
 - iv. screening all registered Responses to identify incomplete or non-compliant Responses with the RFT Documentation;
 - v. provide copies of RFT Register and Responses to the EC and SC, as set out in this Procurement and Evaluation Plan;
 - vi. co-ordinating meetings of the EC and SC;
 - vii. taking minutes and keeping an audit trail of all EC and SC meetings and decisions;

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- viii. arranging for specialist advice as required by the EC and SC;
 - ix. providing procurement and compliance advice; and
 - x. providing advice and guidance on the overall risk presented by the RFT process.
- (b) Persons providing RFT support are not part of the EC or SC and will not participate in any decisions involved in the Evaluation Process.

3.7. Specialist advisors:

- (a) **Legal Advisor:** The Legal Advisor will provide advice as requested to assist the EC and SC in relation to legal and regulatory matters and in ensuring that the legal aspects of all Responses are analysed uniformly, objectively and transparently. The Legal Advisor will provide advice as requested to facilitate the EC's assessment of Responses, particularly in its assessment of legal risks. The Legal Advisor may seek assistance from external legal sources to assist in providing these functions.
- (b) **Probity Advisor:** The Probity Advisor will assist the EC and SC in ensuring that all Responses are analysed fairly, uniformly and transparently, and will be responsible for providing a probity briefing to the Evaluation Team (see Part B of this Plan below). The Probity Advisor may seek assistance from external probity sources to assist in providing these functions.
- (c) **Contract Management Advisor:** If required, the Contract Management Advisor will assist the EC and SC in analysing the contract management issues presented by Responses.
- (d) **Service Centres' System Support Advisor:** If required, the Service Centres' System Support Advisor will assist the EC and SC in analysing the impacts on the support systems for the service centres presented by Responses.
- (e) **Service Centres' Process Advisors:** If required, the Service Centres' Process Advisors will assist the EC and SC in analysing the impacts on the business processes for the service centres presented by Responses.
- (f) **Architecture Advisor:** If required, an Architecture Advisor will assist the EC and SC in providing advice on the Architecture elements (including ICT and security) of the RFT.
- (g) **Cyber Security Advisor:** If required, a Cyber Security Advisor will assist the EC and SC in providing advice on the cyber security elements of the RFT.

3.8. Delegate:

- (a) The Delegate is responsible for:
 - i. considering the recommendations put forward by the EC as approved by the SC, following completion of the Evaluation Process;
 - ii. resolving any issues in relation to any conflict of interest which may be raised in relation to the Chairs of the EC and the SC or which cannot be resolved to the satisfaction of the Chair(s) and the Probity Advisor. The Delegate will be the final arbitrator in resolving issues of conflict of interest; and

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- iii. having considered the Evaluation Report and made all reasonable enquiries, making a decision on a preferred supplier and commencing contract negotiations with the intent of awarding a contract(s).

3.9. In addition to the specific roles and responsibilities identified above, Committee members and all other officers and advisors involved in the Evaluation Process must be fully aware of, and comply with, all requirements of:

- (a) the Commonwealth Procurement Rules (as updated from time to time: available at www.finance.gov.au), especially with respect to ethics and fair dealing with parties submitting, or invited to submit, Responses;
- (b) the Australian Government policy Ethics and Probity In Procurement (available at www.finance.gov.au);
- (c) DIBP's fraud control and anti-corruption plan (<https://bordnet.immi.local/LegalandRisk/Documents/fraud-control-anti-corruption.pdf>) ; and
- (d) all other relevant guidelines that relate to official conduct of Commonwealth public servants.

4. Addenda Handling

4.1. Roles and Responsibilities

- (a) In consultation with RFT support and the Probity Advisor, Channels Strategy and Management Branch (or other personnel as deemed necessary by the Delegate) will be responsible for the preparation of addenda to the RFT;
- (b) RFT support is responsible for quality assuring addenda, including ensuring Probity Advisor clearance has been obtained prior to publication of the addenda;
- (c) The Delegate is responsible for approving the release of addenda;
- (d) RFT support is responsible for publishing addenda on AusTender; and
- (e) The Probity Advisor is responsible for registering the addenda in the probity register.

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PART B - PROBITY ASPECTS**5. Process**

- 5.1. The evaluation will be conducted in a systematic and structured manner as set out in the published RFT Documentation and this Plan to ensure an effective and ethical RFT process can be demonstrated.
- 5.2. The purpose of the evaluation is to identify and document the Response(s) that satisfy the requirements specified in the published RFT Documentation.

6. Ethics and Fair Dealing

- 6.1. Paragraph 6 of the Commonwealth Procurement Rules states 'The Australian Government promotes the proper use and management of public resources'. As a result, it is essential that a framework of ethics and fair dealing is established from the start of the Evaluation Process. A specific aspect of ethical behaviour relevant to procurement is an overarching obligation to ensure that all Respondents are treated equitably. All Respondents are entitled to have their Responses assessed ethically and fairly and for this to be seen to have been done. Further to the requirements in paragraph 6.6 of the Commonwealth Procurement Rules, the following are critical to ensuring ethical behaviour in the RFT:
 - (a) seeking prompt advice where probity issues arise;
 - (b) not accepting gifts or hospitality;
 - (c) being scrupulous in the use of public property; and
 - (d) complying with all duties and obligations in:
 - i. the information privacy principles of the *Privacy Act 1988*;
 - ii. the security provisions of the *Crimes Act 1914*; and
 - iii. where applicable, the Australian Public Service's Code of Conduct as set out in the *Public Service Act 1999*.
 - 6.2. All persons involved in the Evaluation Process must demonstrate complete impartiality to, and equitable treatment of, all Responses. A structured, objective, Evaluation Process applying a consistent methodology to all Responses will enable this to be achieved.
- 7. Adherence to Evaluation Criteria**
- 7.1. In conducting the evaluation of the Responses, the EC and the SC must adhere to the published Evaluation Criteria.
- 8. Accountability and Transparency - Audit Trail**
- 8.1. A clear audit trail is necessary to:
 - (a) ensure that the process is fully documented;
 - (b) demonstrate that EC and SC members have acted objectively and logically; and
 - (c) substantiate the basis for the recommendations in the Evaluation Report.
 - 8.2. All EC and SC meetings will be minuted and the Chair of the meeting will approve the minutes as an accurate record prior to the following meeting, and the minutes will then be confirmed as an accurate record at the following meeting. The minutes will be filed as part of the audit trail for the evaluation.

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- 8.3. The EC and SC will ensure that appropriate audit trails are maintained, including identification of who performs what action at what time. The EC will ensure that any action involving the allocation of, or amendment to, scores or independent reviews etc. is properly documented. The EC and SC will ensure sufficient documentation supporting its reasons for all decisions is maintained.
- 9. Gifts, Entertainment and Hospitality**
- 9.1. During the Evaluation Process, Evaluation Team members must abide by the Department's Gifts, Entertainment and Hospitality policy (<https://bordernet.immi.local/FinancialManagement/Documents/accountability-authority-instructions/accountable-authority-instructions.pdf>).
- 9.2. Any offer of gifts, hospitality or entertainment must be reported to the EC or SC Chair immediately. If the offer of gifts or entertainment is made to the EC or SC Chair, the Chair must immediately report the offer to the Delegate.
- 9.3. The Chair (or Delegate), in consultation with the Probity Advisor, will determine what, if any, action is required in relation to any offer of gifts, hospitality or entertainment.
- 10. Conflicts of Interest**
- 10.1. All persons involved in the RFT process (relevant persons) must abide by the Australian Public Service Code of Conduct requirements in respect of conflicts of interest.
- 10.2. In particular, all persons must declare any real or apparent conflict of interest to the EC or SC Chair as applicable (or to the Delegate if the conflict relates to the Chair) before commencing the Evaluation Process.
- 10.3. Conflict of interest declarations should be in the form set out at **Attachment A**.
- 10.4. A conflict of interest will exist if:
- (a) through any current or proposed future dealings or relationships with a Respondent or any related body, a relevant person or their family stands to gain a benefit or advantage from the outcome of the Evaluation Process; or
 - (b) there is any other reason why a relevant person may not deal with a Respondent in an objective manner.
- 10.5. All relevant persons must submit new conflict of interest declarations as soon as any circumstances change which may raise an actual or potential conflict of interest.
- 10.6. Upon receipt of a declaration of an actual or potential conflict of interest, the EC or SC Chair as applicable (or the Delegate if the conflict relates to the Chair) will decide in consultation with the Probity Advisor on the course of action to be taken to resolve the matter. If, in the opinion of the Chair (or Delegate) in consultation with the Probity Advisor, the conflict of interest is not able to be resolved, the person in relation to whom the conflict exists will be excluded from the RFT process (or a particular step(s) in the Evaluation Process).
- 10.7. The Chair may refer any conflict of interest issues to the Delegate, and must do so if the conflict of interest cannot be resolved in the first instance to the satisfaction of both the Chair and the Probity Advisor.

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- 11.1. The procedures and protocols in this section will be implemented to minimise the risk of any improper communication occurring that could influence the probity of the RFT process.
- 11.2. All members of the Evaluation Team are required to comply with the procedures and protocols in this section.
- 11.3. In this RFT process, probity advice is to be provided to all Evaluation Team members as follows:
- (a) no discussions will be held with, or on behalf of, any potential Respondent about the RFT or the decision-making processes except in the manner provided for in this Plan or the published RFT Documentation;
 - (b) no potential Respondent will receive, or should be perceived to have received, more information than is available to all potential Respondents, nor will they receive any information in advance of its being made available generally to all potential Respondents;
 - (c) where appropriate, information provided in response to questions from a potential Respondent will be made available on AusTender (on a non-attributable basis). In addition, all alterations, corrections and notices in connection with the published RFT Documentation will also be made available on AusTender; and
 - (d) contents of all communication to potential Respondents after release of the RFT Documentation must be agreed by the Delegate and the Probity Advisor.
- 11.4. No assistance is to be provided to any potential Respondent, specifically:
- (a) details of any communication or approaches from or on behalf of potential Respondents will be fully documented;
 - (b) all communications from potential Respondents during the RFT process will be through the email address of the Contact Officer identified in the published RFT Documentation;
 - (c) potential Respondents will not be advised on how to develop their Responses apart from guidance that has been made publicly available to all potential Respondents;
 - (d) any past or intended communications with, or the conduct of, potential Respondents that may involve breaches of the probity of the process or alleged illegality, will be referred to the Probity Advisor for investigation and appropriate action; and
 - (e) Responses will not be communicated to people or positions outside those named in this Evaluation and Probity Plan.
- 11.5. All media contact must be managed and approved through the EC Chair. RFT support and the Probity Advisor will consult with the National Communications Branch as appropriate, in order to recommend a response for the Chair's approval.

12. Industry Briefing

- 12.1. An industry briefing will be offered to all potential Respondents prior to the closing time for Responses.

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- 12.2. Potential Respondents will be required to register their attendance at the industry briefing.
- 12.3. The industry briefing will take the form of a prepared presentation.
- 12.4. If there are any questions or further discussions at the industry briefing, those questions and answers will be released to all potential Respondents in the form of addenda to the published RFT Documentation.
- 12.5. The Probity Advisor may attend the industry briefing (if required) to ensure that probity requirements are met during and after the briefing.

13. Confidentiality

- 13.1. Responses will be treated as confidential as described in the published RFT Documentation.
- 13.2. Responses will be kept secure and will not be used so as to prejudice a fair, open and competitive process.
- 13.3. Commonwealth public servants who are members of the Evaluation Team will be required to complete a Confidentiality Acknowledgement (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.4. Any members of the Evaluation Team who are not Commonwealth public servants will be required to complete a Deed of Confidentiality (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.5. No discussion will occur with any person outside of the Evaluation Team and the Delegate regarding any aspect of the RFT or the Evaluation Process without the approval of the EC Chair in consultation with the Probity Advisor.

14. Security

- 14.1. Dedicated, lockable containers and secure IT storage devices will be used to store Responses and other RFT related documentation. The containers and devices will be maintained as a secure storage area in which all sensitive documentation will be kept when not in use by the Evaluation Team.
- 14.2. A copy of each Response will be made available to each EC member. No additional copies or copying of any part of the Responses will be permitted without the written authorisation of the EC Chair.
- 14.3. All copies of Responses and other material associated with the Responses and/or the evaluation will be kept in the secure storage areas or a designated evaluation room and will not be left unattended during the Evaluation Process or removed from the secure storage areas or the designated evaluation room without the express permission of the EC Chair.
- 14.4. RFT documentation will be marked as 'For-Official-Use-Only' or 'Sensitive'.

15. Probity Briefing and Signoffs

- 15.1. Apart from the Probity Advisor, all Evaluation Team members must attend an appropriate probity briefing prior to their involvement in the Evaluation Process. The probity briefing will be conducted by the Probity Advisor.
- 15.2. The Probity Advisor will be required to provide confirmation that all probity aspects of the RFT have been satisfactorily followed at the following stages of the Evaluation Process:
 - (a) before submission of this Plan to the Delegate;

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- (b) before the release of the RFT Documentation to the market;
- (c) before the exclusion of any Response from further consideration (including through a short listing process); and
- (d) before the submission of the final Evaluation Report to the Delegate.

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PART C - EVALUATION PROCESS

16. Overview

- 16.1. The EC will evaluate Responses against the Evaluation Criteria and will consider the overall risk presented by the Respondents.
- 16.2. The Evaluation Process will be undertaken using the following steps:
 - (a) Step 1: Receipt and Registration of Responses
 - (b) Step 2: Initial Screening
 - (c) Step 3: Technical Evaluation
 - (d) Step 4: Commercial Evaluation (non-technical Evaluation Criteria)
 - (e) Step 5: Overall Value for Money Assessment (including Viability and Risk)
 - (f) Step 6: Evaluation Report
 - (g) Step 7: Steering Committee's consideration of the Evaluation Report
 - (h) Step 8: Notification and Debriefing.

17. Timing

- 17.1. The proposed timetable for the process is set out in **Attachment C**. The dates in the timetable may change in accordance with the Department's requirements.

18. Step 1: Receipt and Registration of Responses

- 18.1. As soon as practicable after the closing time for the RFT, RFT support will download the Responses from AusTender.
- 18.2. A minimum of two RFT support personnel will register and record all Responses received before the closing time for the RFT on a Register. That Register will be signed by all personnel who conducted the receipt and registration of the Responses.
- 18.3. Any Responses received after the closing time for the RFT and any disputes or issues regarding receipt of Responses will be managed by RFT support and the Probity Advisor.
- 18.4. As soon as practicable after finalisation of the receipt and registration process, RFT support will provide the EC Chair with, or appropriate electronic access to, one copy of the Register and one copy of all Responses. The EC Chair will not distribute the Responses until the initial screening (Step 2) has been completed.

19. Step 2: Initial Screening

- 19.1. RFT support will screen all registered Responses to identify any that:
 - (a) fail to comply with any Conditions of Participation identified in the RFT Documentation (other than financial and commercial viability which will be assessed at Step 5);
 - (b) fail to comply with any Minimum Content and Format Requirements identified in the RFT Documentation;
 - (c) contain unintentional errors of form; or
 - (d) are otherwise non-compliant with the RFT Documentation.

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- 19.2. Subject to subclause 19.5, the EC will exclude any Responses from further consideration which have not complied with any of the Conditions of Participation or any of the Minimum Content and Format Requirements.
- 19.3. In consultation with the Probity Advisor, the EC may also exclude a Response from further consideration where, in the EC's reasonable opinion, the Response is incomplete or is otherwise so clearly non-competitive, that it is likely to be evaluated so as to represent no material value for the Commonwealth. The EC may, however, decide to consider these Responses and seek clarification (in accordance with paragraph 19.6 below) if it believes that this is appropriate.
- 19.4. Screening is an ongoing process and is therefore subject to consultation with RFT support and the Probity Advisor. The EC may decide during any stage of the Evaluation Process to exclude a Response from further consideration on the basis that it falls within the categories described in this step.

Unintentional errors of form

- 19.5. If the EC considers that there are unintentional errors of form in a Response, the EC may ask the Respondent to correct or clarify the error. However, no material alteration or addition to that Response will be permitted. Any consideration to issue requests for correction or clarification of errors of form will be referred to the Probity Advisor for advice.

Clarifications

- 19.6. Clarification of Responses may be sought at any time during the Evaluation Process. All requests for clarification in relation to a Response will be in writing and from the Contact Officer specified in the published RFT Documentation, and answers from Respondents must be in writing and submitted in accordance with the RFT Documentation.
- 19.7. The EC Chair should consult the Probity Advisor before issuing any clarification question. Additional or new information must not be sought unless it is by way of clarification of elements of the information already submitted with the Response.
- 19.8. Clarifications will focus on addressing an ambiguity, error or omission that is relevant to the evaluation of a Response. Where a clarification is of a more general nature, then advice/information will be requested from all Respondents who have submitted a Response.

Distribution of Responses

- 19.9. The technical and financial evaluation of Responses will be undertaken independently of each other to ensure one element does not unduly influence the other. RFT support will be responsible for separating the technical and the financial elements of the Responses. In particular, no pricing detail is to be supplied to the TET.
- 19.10. RFT support will provide the EC Chair with, or appropriate electronic access to, the separated Responses. The EC Chair will provide the TET and CET with appropriate access to the Responses.

20. Step 3: Technical Evaluation

- 20.1. The TET lead, in consultation with the EC Chair, is responsible for ensuring the Technical Evaluation is completed in a timely manner and in accordance with this EPP.

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Scoring of technical Evaluation Criteria

- 20.2. The Members of the TET will consider all relevant information for each technical Evaluation Criterion (**PART D** below sets out those Evaluation Criteria that are technical criteria) provided in each Response and conduct an objective analysis against each technical Evaluation Criterion. Where appropriate, the TET may use material tendered in response to one Evaluation Criterion in the evaluation of other Evaluation Criteria.
- 20.3. The TET may also make independent enquiries with any relevant person or entity about any matter that may be relevant to the evaluation of any Response, and consider the results of their enquiries. The independent enquiries must be consistent with this EPP and the TET must seek agreement from the EC Chair prior to making such independent enquiries. The TET, however, must not incorporate new information and/or material into a Response. If the enquiry result is adverse or contrary to what is provided in the Response, the EC Chair, in consultation with RFT support and the Probity Advisor, will consider the next appropriate step, within the framework of the RFT Documentation.
- 20.4. A minimum of two members of the TET will score each technical Evaluation Criterion for each Response. The TET members will then meet and discuss their individual scores, and agree a score for each technical Evaluation Criterion for each Response
- 20.5. If alternative Responses are received and accepted for evaluation (in accordance with the relevant provisions of the RFT Documentation), a technical evaluation of the alternative Responses will be undertaken upon completion of the technical evaluation of complying Responses.
- 20.6. Each TET member will assess each technical Evaluation Criterion using objective scoring. The 11 Point Evaluation Scale in **Attachment D** proposes a rating scale with commentary and guidance to assist members of the TET to remain objective in applying scoring for the technical Evaluation Criteria. The evaluation scale is intended as a guide for the TET members to determine the score to be given to a Response.
- 20.7. Weightings will then be applied to each score for each technical Evaluation Criteria in accordance with the weightings specified in **PART D** below.

Technical evaluation risks

- 20.8. Each member of the TET is responsible for recording all risks identified through the technical evaluation process. Any risks that are not addressed or mitigated through site visits, presentations or referee checks must be presented to the EC for consideration in assessing Value for Money.

Site visits, presentations, referee checks

- 20.9. After reviewing the Responses, in order to appropriately and completely evaluate the Response, the TET may decide to:
- (a) conduct visits to Respondents' sites;
 - (b) seek presentations by Respondents;
 - (c) conduct referee checks;
 - (d) discuss with, or visit, customers or subcontractors of Respondents, whether or not the customers are provided as referees by a Respondent; and/or
 - (e) carry out independent enquiries in relation to any matter that may be relevant to the evaluation of a Response.

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- 20.10. The EC may require Respondents to give presentations of their Response. Presentations may be held in conjunction with site visits. The TET will confirm schedule times with the relevant Respondents.
- 20.11. Where interviews or presentations are conducted, the EC will decide which questions will be asked of all Respondents and, if applicable, which questions will apply to specific Respondents.
- 20.12. The EC Chair, in consultation with the lead of the TET, will designate a member(s) of the TET to undertake referee checks if required. Before any referee checks are undertaken, the EC will agree a list of questions that will be asked as part of each referee check and the format that will be used to record answers.
- 20.13. Following the conclusion of any site visits, presentations, referee checks and/or obtaining of further information through independent enquiries, the TET will, in light of the further information received, review and, where applicable, revise scores for the technical Evaluation Criteria.

Setting aside

- 20.14. At any stage of the technical evaluation the TET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 20.15. At any stage of the technical evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

21. Step 4: Commercial Evaluation (non-technical Evaluation Criteria)

- 21.1. The CET lead, in consultation with the EC Chair, is responsible for ensuring the Commercial Evaluation is completed in a timely manner and in accordance with this EPP.
- 21.2. The Commercial Evaluation consists of:
 - (a) a Financial Assessment;
 - (b) a financial viability assessment; and
 - (c) a commercial assessment.
- 21.3. The Commercial Evaluation is to be conducted independently of the Technical Evaluation; however it may be conducted concurrently with the Technical Evaluation.

Financial assessment

- 21.4. The purpose of the Financial Assessment is to ensure that pricing provided in the Responses is normalised across the Responses to allow a fair and valid assessment of the costs for each Response in order to undertake a Value for Money assessment.
- 21.5. Financial Assessments may be conducted only on Respondents that have not been previously set aside.

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For Official Use Only***Financial viability assessment***

- 21.6. The CET members of the EC will also undertake and document financial viability assessments based on standard industry practice, utilising external financial resources to assist in this process.
- 21.7. Financial viability assessments may be conducted only on Respondents that have not been previously set aside.
- 21.8. The CET members will discuss their findings for each Respondent with the EC Chair, who may direct further work to be done if the EC Chair is not satisfied with the level of justification for the assessed financial viability of any Respondent.

Commercial assessment

- 21.9. The commercial assessment will identify the commercial risks associated with each Response including any proposed amendments to the commercial terms proposed in the draft contract issued with the RFT.

Setting aside

- 21.10. At any stage of the financial evaluation the CET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 21.11. At any stage of the financial evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (d) fully document its reasons as to how and why it has set aside the Response(s);
 - (e) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (f) inform the SC of the proposed setting aside of the Response.

22. Step 5: Overall Value for Money Assessment (including Viability and Risk)***Proposed confidential information***

- 22.1. Where a Response indicates that a potential supplier wishes the Department to keep certain information confidential, the EC may refer the matter to the Legal Advisor for advice. The Legal Advisor will advise on the issues raised and assess whether these concerns are likely to be able to be resolved or represent a significant risk to the Department.
- 22.2. The EC will consider any report of the Legal Advisor.

Assessing risks

- 22.3. In determining the risk profile presented by each Respondent, the EC will assess risk in terms of the likelihood of the Respondent achieving what has been offered in its Response and any other risk associated with the Response. Guidance on the risk assessment process is in **Attachment E**.
- 22.4. The EC members will need to reach a consensus as to whether a risk actually exists, the likelihood of the risk occurring and the consequences for the Department if the identified risk eventuates.

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Risk and score revision

- 22.5. Following the completion of the risk assessment process, the EC will review and, where applicable, revise scores or rankings for each Response.

Setting aside

- 22.6. If, in the opinion of the EC, a risk is deemed to actually exist and the mitigated consequence(s) of that risk is too great for the Department to accept, the EC may set aside a Response from further evaluation. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

Value for Money

- 22.7. Following the completion of the independent Technical and non-Technical evaluations of the Responses, the EC will undertake an overall assessment of Value for Money taking into account the results of the Technical evaluation, the non-Technical evaluation and all identified risks (including the financial viability of the Respondents).
- 22.8. The EC will determine a ranking of the Responses based on the overall value for money assessment.
- 22.9. The EC may recommend one or more preferred tenderers to enter into contract negotiations with including identifying risks and key expected outcomes from any subsequent negotiation.

23. Step 6: Evaluation Report

- 23.1. The EC will prepare an Evaluation Report, which includes the following:
- (a) an executive summary (if the EC considers this would be useful);
 - (b) an outline of the RFT processes followed by the EC;
 - (c) evaluations with scores, any comparative evaluation adjustments used during the evaluation and the overall assessment of Responses;
 - (d) a summary of the EC's assessment of each Response; and
 - (e) recommendations as to the preferred tenderer(s).
- 23.2. The EC may submit a draft Evaluation Report to the SC and/or the Probity Advisor for guidance on its development.
- 23.3. Members of the EC will sign the Evaluation Report to indicate their concurrence with it. Dissenting members may submit an alternative report.
- 23.4. The EC Chair will submit the Evaluation Report to the Probity Advisor for endorsement.

24. Step 7: Steering Committee's consideration of the Evaluation Report

- 24.1. After receiving endorsement from the Probity Advisor, including making any revisions this advisor considers necessary, the EC Chair must submit the Evaluation Report to the SC for endorsement.

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- 24.2. The SC must consider the Evaluation Report and any alternative reports. Where the SC seeks to make material alterations to the Evaluation Report, the SC Chair will discuss these alterations with the EC.
- 24.3. The SC Chair will annotate any changes on the Evaluation Report and seek endorsement of the SC. The members of the SC will indicate their endorsement of the Evaluation Report, including any annotated changes, by signing the report. Once endorsed by the SC, the SC Chair must resubmit the draft Evaluation Report to the Probity Advisor for their endorsement.
- 24.4. The Evaluation Report, as endorsed by the SC and the Probity Advisor, will then be submitted to the Delegate for approval.

25. Step 8: Notification and Debriefing

- 25.1. Notification of the outcomes of the RFT will be undertaken in various stages for the purposes of letting Respondents know the outcome as soon as practicable.
- 25.2. Note: Respondents are not to be informed that they are unsuccessful until a contract has been awarded.

Responses set aside

- 25.3. Once the SC has agreed to set aside a Response, the EC Chair will be responsible for advising the Respondent in writing that they are currently not the preferred tenderer.

Preferred Tenderer

- 25.4. Once the Delegate has selected one or more preferred tenderers, the EC Chair will be responsible for informing the preferred tenderer(s) of their preferred tenderer status and inviting them to negotiations. The EC Chair will be responsible for advising all other Respondents in writing that they are currently not the preferred tenderer.

Contract award

- 25.5. Once a contract has been awarded, the EC Chair will be responsible for notifying all Respondents in writing, including giving the opportunity to attend a verbal debriefing.

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PART D - EVALUATION CRITERIA

26. Evaluation Criteria

- 26.1. As set out in Part C, the Responses will be evaluated by the TET and CET members of the EC. The TET will evaluate the responses against the weighted Technical Criteria. The CET will evaluate the Responses against the unweighted Non-Technical Criteria.
- 26.2. Compliance checks will be undertaken by RFT support against the Conditions for Participation. In addition to the Conditions for Participation, requirements identified as 'must' are also mandatory in accordance with the Commonwealth Procurement Rules.
- 26.3. The technical Evaluation Criteria are broken into Evaluation Sub-Criteria to assist in evaluating the responses. Each of the requirements in the Statement of Requirements will be mapped to an Evaluation Criteria or Evaluation Sub-Criteria. The weightings of the Evaluation Sub-Criteria will not be published to minimise the risk that Respondents will neglect to provide adequate responses to lower weighted sub-criteria.

27. Conditions for Participation

- 27.1. The Conditions for Participation for this RFT are:
- (a) The Tenderer must submit the Tender by the Closing Time;
 - (b) The Tenderer must be financially and commercially viable to perform the Services;
 - (c) The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim;
 - (d) The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the Charter of the United Nations Act 1945 (Cth); and
 - (e) The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the Charter of United Nations (Dealing with Assets) Regulations 2008 (Cth).

28. Minimum Content and Format Requirements

- 28.1. The Minimum Content and Format Requirements for this RFT are:
- (a) The Tenderer must Tender for all the Services in the Statement of Requirement. No Tenders for only part of the Services set out in the Statement of Requirement will be allowed;
 - (b) The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in the Tenderer Response Forms;
 - (c) The Tenderer must comply with AusTender lodgement requirements and procedures; and
 - (d) Measurements in the Tender must be expressed in Australian legal units of measurement.

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29. Technical Criteria

29.1. The technical Evaluation Criteria for this RFT are:

No.	Evaluation Criteria	Weighting
1	Technical Capability	65%
2	Implementation Approach	20%
3	Capacity and Organisational Capability	7.5%
4	Continuous Improvement	7.5%

30. Non-Technical Criteria

30.1. The non-technical Evaluation Criteria (which are unweighted) are:

No.	Evaluation Criteria
5	Price
6	Risk (including financial viability and commercial risks)

30.2. The non-technical Evaluation Criteria will be considered in terms of the risk that the Response represents to the Department and will be used to determine the overall Value for Money of the Response.

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Agreement and Approval of the Plan

Agreement to the Evaluation and Probity Plan by Steering Committee and Evaluation Committee

I agree to the terms and conditions of this Plan.

Evaluation Committee

s. 22(1)(a)(ii)

(Chair and TET Member)

(Deputy Chair – TET Lead)

(TET Member)

s. 22(1)(a)(ii)

(signature)

20/7/2017

(date)

(signature)

24/7/17.

(date)

(signature)

20/7/17

(date)

s. 22(1)(a)(ii)

(TET Lead)

(CET Lead)

(CET Member)

s. 22(1)(a)(ii)

(signature)

20/7/17

(date)

(signature)

21/7/17.

(date)

(signature)

24 June 2017

(date)

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Steering Committee

Tara Cavanagh (Chair)

Renelle Forster (Deputy Chair)

Steven Groves (Member)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

(signature)

19/7/2017

(date)

(signature)

19/7/17.

(date)

Steve McGlynn (Member)

Ian Laverock (Member)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

(signature)

19/8/2017

(date)

(signature)

19/7/2017

(date)

Cheryl-anne Moy (Observer)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

Approval of Delegate

I, the Delegate, approve the contents of this Plan.

Tara Cavanagh

(A/FAS Visa Delivery Transformation Division)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

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Attachment A

Conflict of Interest Declaration

I have been asked to disclose any interest that I may have which would preclude me from undertaking my role as a member of the Evaluation Committee (EC) or as an advisor to the EC in the procurement process being undertaken by the Department of Immigration and Border Protection (the **Department**) for the procurement of:

I understand that a conflict of interest can arise out of any relationship, either personal, financial or professional, with any potential respondent, or employee or advisor of any potential respondent, such that a potential respondent, or any employee or advisor of a potential respondent, or myself or a member of my direct family, could benefit personally in some way from the outcome of the procurement process.

To the best of my knowledge and belief I have not had, and do not have any relationship which may give rise to a conflict of interest. **[Delete if not applicable.]**

I declare below relationships which may give rise to a conflict of interest at the attachment to this declaration. **[Delete if not applicable.]**

I am aware of the Department's requirement for strict probity in the procurement process and if I subsequently discover that there is a relationship with any potential respondent which does or may constitute a conflict of interest, I will immediately report it to the EC chair.

I will also immediately report to the EC Chair any direct or indirect contact that I have with any potential respondent, or any employee or advisor of any potential respondent, which is not officially authorised, including any approach made to me in the way of a direct or implied offer of future employment or other benefit.

Dated the day of 20

Signed:

Name:

Address:

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For Official Use Only**Attachment B – Confidentiality Forms****Deed of Confidentiality**

This Deed Poll is made by:

Name: _____

Address: _____ **(Participant)**

For the benefit of the Commonwealth of Australia as represented by the Department of Immigration and Border Protection **(Department)**

- A. The Participant is performing duties associated with the Department's procurement process for _____ **(Procurement Process)**.
- B. The Participant will access Confidential Information during the Procurement Process.
- C. Confidential Information means information (however stored) that:
 - (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
 but does not include information that:
 - (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.
1. The Participant undertakes in respect of the Confidential Information:
 - (a) to keep it secret;
 - (b) to use it solely for the Procurement Process;
 - (c) to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
 - (d) not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
 - (e) not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
 - (f) to obey the directions of the Department and its representatives in dealing with the Confidential Information;
 - (g) to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
 - (h) to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

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2. The Participant acknowledges that:
 - (a) the obligation to keep the Confidential Information secret continues after the end of the completion of the Procurement Process and the Participant's working with the Department;
 - (b) the Participant may additionally owe duties of confidentiality to third parties that have provided Confidential Information to the Department on a confidential basis;
 - (c) this Deed does not provide for any change in ownership of the Confidential Information;
 - (d) the Crimes Act 1914 provides that a person who performs services for or on behalf of the Commonwealth and who unlawfully discloses information may be liable to imprisonment for up to 2 years; and
 - (e) the obligations created by this Deed are in addition to any other obligation or duty which may arise under statute or otherwise, including under the Crimes Act.
3. The law applicable in the Australian Capital Territory will apply to this Deed.

Executed as a Deed.

SIGNED, SEALED AND DELIVERED

By _____)
[Name of Participant])

On: _____) _____
[Date] [Signature of Participant]

In the presence of:

[Name of witness]

[Signature of witness]

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Attachment C

RFT EVALUATION TIMETABLE

Task to be Completed	By Whom	By When
Finalise Procurement Plan	s22(1)(a)(ii)	24 May 17
Finalise Evaluation and Probity Plan		24 May 17
Finalise Procurement Documentation		31 May 17
Obtain Legal, Probity Advisor and Delegate clearance of documentation, resource arrangements		31 May 17
Conduct probity briefings		As required
Receive conflict of interest and confidentiality forms (as required) from Evaluation Team members		As required
Procurement Documentation released	Policy, Panels and Reporting Section	16 Jun 17
Set up document management arrangements such as TRIM storage location/s	s22(1)(a)(ii)	16 Jun 17
Receive Responses	Policy, Panels and Reporting Section	20 Jul 17
Register Responses and complete compliance check	Policy, Panels and Reporting Section	21 Jul 17
Provide Evaluation Committee with TRIM Location/s for Responses	s. 22(1)(a)(ii)	24 Jul 17
Assess Responses against Evaluation Criteria (including financial viability evaluation)	Evaluation Committee	24 Jul – 25 Aug 17
Provide draft Evaluation Report to Probity Advisor and Legal Advisor	Evaluation Committee, Chair	26 Aug 17
Finalise Evaluation Report	Evaluation Committee	27 Aug 17
Submit Evaluation Report to Steering Committee	Evaluation Committee, Chair	28 Aug 17
Submit Evaluation Report to Delegate	Steering Committee	1 Sep 17
Conduct negotiations for contractual arrangements	TBD	11 Sep – 14 Nov 17
Advise successful and unsuccessful supplier(s)	Evaluation Committee, Chair	17 Nov 17

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Attachment D

11 POINT EVALUATION SCALE

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11 Point Evaluation Scale

	Does the offer satisfy the evaluation criterion?	Where there are deficiencies, what level are those deficiencies?	To what level does the supporting information provide confidence of success?	Are there any shortcomings/missing information with the submission?	Score	Descriptor	Narrative
Leading	Yes	N/A	Very High	No	10	Excellent	The submission has no shortcomings in any way and the evaluator has very high confidence that all aspects of the offer will be met.
	Yes	N/A	Very High	Yes	9	Superior	The offer satisfies the evaluation criterion in all respects. The evaluator has a high level of confidence that the Service Provider will meet all aspects of the offer. The Service Provider’s claims are fully supported by the information provided. Supporting information is comprehensive and complete.
	Yes	N/A	High		8	Very Good	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are fully supported by the information provided. Supporting information is comprehensive and complete.
Preferred	Yes	N/A	Generally		7	Good (plus)	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are well supported by the information provided. Supporting information is largely comprehensive and complete.
	Largely	Minor			6	Good	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are mainly supported by the information provided. Supporting information is generally comprehensive and complete.
	Largely	Medium			5	Good (minus)	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are largely supported by the information provided. Supporting information is generally acceptable.
Acceptable	Largely	Major			4	Acceptable (plus)	The offer largely satisfies the evaluation criterion. There are some deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
	Partially	Minor			3	Acceptable	The offer partially satisfies the evaluation criterion to an acceptable degree. There are some minor deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
Unacceptable	Partially	Major			2	Marginal	The offer has some short comings and does not fully satisfy the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has some reservations regarding the Service Provider’s ability to satisfy the required standard.
	Barely				1	Poor	The offer barely satisfies, or does not satisfy, the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has significant reservations regarding the Service Provider’s ability to satisfy the required standard.
	No				0	Non-compliant	The offer does not satisfy the evaluation criterion. There are major deficiencies in all aspects of the supporting information and the evaluator considers that the Service Provider has not satisfied the required standard.

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Attachment E

RISK ASSESSMENT**Risk Identification**

As part of the evaluation of Responses against each Evaluation Criterion, the Evaluation Committee (EC) member will identify and document any risks associated with each Respondent achieving the claims set out in its Response. The EC will reach a consensus as to whether a risk actually exists and what the nature of that risk might be.

Following the identification of risks, an assessment of risk will be undertaken which involves considering the consequence of the risk and the likelihood of each risk occurring. These will then be combined to determine the overall risk.

All decisions will be appropriately documented for use throughout this evaluation process.

The overall risk will then be considered in the context of the rating scale included in section 22 of this Plan.

Determination of Risk Consequence

The consequence of identified risks will be classified as Severe, Major, Moderate, Minor or Insignificant depending on the nature of the identified risks. Guidance on classifying risks is given by the following table:

Consequence	Description
Severe	<ul style="list-style-type: none"> – would cause significant financial loss – threaten the Department's viability – result in extreme political / community sensitivity and media scrutiny – result in a Commission of Inquiry or Inquest – result in death or permanent disability
Major	<ul style="list-style-type: none"> – would cause major financial loss – threaten the continuation of a program or project – impact adversely on the achievement of the Department's strategic objectives – result in significant political / community sensitivity and media scrutiny – result in Ministerial intervention – require audit – result in life threatening or serious injury which is irreversible requiring medical attention and ongoing treatment
Moderate	<ul style="list-style-type: none"> – would cause moderate to high financial loss – would not threaten a program or project but could result in a significant review – result in some political / community sensitivity and media scrutiny – result in parliamentary questions – require management initiated reviews – some impact on the Department's operational objectives – result in injury or health impacts that are reversible but may require medical attention but limited ongoing treatment

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Consequence	Description
Minor	<ul style="list-style-type: none"> – would cause medium to low financial loss – could require action to offset the impact on some aspect of a program or project – limited impact on the Department's operational objectives – limited political / community sensitivity – management reporting required – may result in minor injury or reversible health damage which may require ongoing treatment
Insignificant	<ul style="list-style-type: none"> – would have an insignificant or low financial loss – any consequences can be dealt with by routine operations or management action – no reputation damage – any injuries can be dealt with through primary first aid

Assessment of Risk Likelihood

This assessment is based on the likelihood that the risk will occur in light of the Response provided by each Respondent. Guidance on this assessment is given in the following table:

Likelihood	Description
Almost certain	Can be expected to occur in most circumstances within the next year
Likely	Will probably occur in most circumstances within the next two to five years
Possible	May occur in most circumstances within the next five to 10 years
Unlikely	Could occur at sometime within the next 10 to 20 years
Rare	Expected to occur only in the most exceptional circumstances

Risk Matrix Table

The risk matrix table shows the relationship between the likelihood and the consequences /impact of risk to produce an overall level or risk

Likelihood	Consequences				
	Extreme	Major	Moderate	Minor	Insignificant
Almost certain	High	Significant	Significant	Moderate	Moderate
Likely	High	Significant	Moderate	Moderate	Moderate
Possible	Significant	Significant	Moderate	Moderate	Low
Unlikely	Significant	Moderate	Moderate	Low	Low
Rare	Moderate	Moderate	Low	Low	Low

High avoid undertaking the activity OR implement new controls

Risk plan must be signed off at executive level

Significant consider suspending or ending activity OR implementing additional controls

Senior Executive attention to risk plan is required

Moderate ensure that controls are in place and operating and that management responsibility for controls is agreed

Low manage by routine procedures and accountabilities

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Australian Government
Department of Immigration
and Border Protection

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MINUTE

To: Deputy Secretary, Visa and Citizenship Services Group, Malisa Golightly
Date: 18 September 2017

s22(1)(a)
(ii)

6/10

s22(1)(a)
(ii)

CLIENT ENQUIRY SERVICES PROCUREMENT: DOCUMENTATION APPROVALS

Purpose

1. To seek your approval of the following documents related to the Client Enquiry Services Request for Tender (RFT):
 - a. updated Procurement Plan
 - b. updated Evaluation and Probity Plan
 - c. Tender Evaluation Report
 - d. Contract Negotiation Directive.

Background

2. You were provided with background information regarding this procurement on 15 September 2017.

Issues

3. Minor changes to the Procurement Plan and the Evaluation and Probity Plan for this procurement have recently been made by the Steering Committee. As Delegate, these changes require your approval.
4. The changes to the Procurement Plan (Attachment A) relate primarily to the change of Delegate from First Assistant Secretary, Digital Transformation and Channels Division (FAS, DTCD) to Deputy Secretary, Visa and Citizenship Services Group. s22(1)(a)(ii)
 [Redacted]
 No changes have been made to the process or governance arrangements that were originally endorsed by the previous Delegate.
5. The changes to the Evaluation and Probity Plan (Attachment B) reflect the change of Delegate. Version control has also been added, and individuals' names have been removed and replaced with position titles only in order to accommodate staffing movements. These changes were endorsed by the Steering Committee on 23 August 2017.
6. The Tender Evaluation Report is the record of the considerations and recommendations of the Evaluation Committee. The Tender Evaluation Report has been endorsed by the Steering Committee, and is attached for your consideration and approval (Attachment C).
7. The Contract Negotiation Directive (CND) is the formal instrument to give authority to the Negotiation Team to negotiate. The CND sets the bounds within which the Negotiation Team must operate. The CND has been reviewed by the Legal Advisors and Probity Advisors for this procurement, as well as the Steering Committee members, and is attached for your consideration and approval (Attachment D).

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For Official Use Only*High Risk High Value (HRHV) Assurance*

8. Procurements selected by the Chief Finance Officer (CFO) and Chief Audit Executive (CAE) as HRHV require additional governance oversight. CFO and CAE written endorsement is required at four stages of the procurement and provided to assist the Delegate in exercising the financial delegation over the HRHV procurement.
9. The CFO and CAE have written to you separately to provide assurance that the CES procurement is being conducted with appropriate risk and compliance assurance procedures in place and is being conducted in accordance with policy and procedures. This is the Gateway 3 – Evaluation stage of the procurement.

Recommendation

It is recommended that you:

- **approve** the revised Procurement Plan (Attachment A)

Approved / ~~Not Approved~~ / ~~Please Discuss~~

- **approve** the revised Evaluation and Probity Plan (Attachment B)

Approved / ~~Not Approved~~ / ~~Please Discuss~~

- **note** and **approve** the recommendations in the Tender Evaluation Report (Attachment C)

Note and Approved / ~~Not Approved~~ / ~~Please Discuss~~

- **approve** the Contract Negotiation Directive (Attachment D)

Approved / ~~Not Approved~~ / ~~Please Discuss~~

s22(1)(a)(ii)

Renelle Forster
Assistant Secretary
Channel Management Branch

s22(1)(a)(ii)

18 September 2017

s22(1)(a)(ii)

Malisa Solightly
Deputy Secretary
Visa and Citizenship Services Group

6 October
September 2017

Attachment(s):

- Attachment A – Procurement Plan
- Attachment B – Evaluation and Probity Plan
- Attachment C – Tender Evaluation Plan
- Attachment D – Contract Negotiation Directive

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PROCUREMENT PLAN

To: Deputy Secretary, Visa and Citizenship Services Group, Malisa Golightly

Through: A/1 Assistant Secretary, Sourcing and Vendor Management Branch, Duane Stokes

s22(1)(a)(ii)

s22(1)(a)(ii)

s22(1)(a)(ii)

CLIENT ENQUIRY SERVICES PROJECT – DIBP RFT 11/16 CLIENT ENQUIRY SERVICES PROCUREMENT PLAN

Timing

Approval of this procurement plan is required by 29 September 2017.

Purpose

1. The purpose of this Minute is to seek:
 - a. Your **approval** as the PGPAAs23(3) goods and services delegate to approach a shortlist of suppliers that responded to the initial Request for Expressions of Interest (REOI) for the provision of Innovative Client Enquiry Services, s22(1)(a)(ii)
 - b. Your **noting** that formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, if needed, will be sought following the evaluation of the proposal, but prior to entering into a formal arrangement.

Background

2. The Client Enquiry Services Project (CESP) is an approved initiative under the Digital Client Enquiry Enablement (DCEE) Programme (formerly known as the Service and Support Integration Programme), operating within the Channel Management Branch (CMB) of the Visa Delivery Transformation Division. The DCEE Programme is tasked to implement initiatives to enhance the Department's channel management and digital strategies. The CESP is seeking to identify potential business improvement opportunities and solutions that will allow the Department to:
 - a. Achieve and maintain an overall movement of clients from high-cost in-person channels to lower-cost self-service digital channels;
 - b. s47C
 - c. Achieve an overall improvement of Client Service Levels to meet industry standards and benchmarks.
3. The Department of Immigration and Border Protection (DIBP) sought expressions of interest for the provision of innovative solutions and products to enhance DIBP's Client Enquiry Services, particularly its Service Centres, through an open market REOI process. A/FAS DT&CD signed the REOI Evaluation Report on 24 January 2017.

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Issues

4. A number of issues have been identified regarding the Request for Tender (RFT), including:
 - a. Adverse reaction from Staff and Unions may present at any time during the procurement process. This may impact the Department's reputation if this is broadcast by the media.
 - b. The timeline for implementation is aggressive and has minimal contingency within it, therefore any delays in the process are likely to impact the indicative dates.

Method of Procurement

5. A multi-stage procurement process is being undertaken. Following the successful completion of Stage 1 (the REOI process), this procurement plan is for Stage 2 and is a Prequalified Tender method of procurement.
6. The stages, decision points and indicative timeframe for the whole procurement process is outlined below:
 - a. Stage 1: A REOI was released via Open Tender to form the first stage of a multi-stage procurement. Respondents to the REOI were required to demonstrate their capability and capacity to provide the required services and products. The Department evaluated the responses in accordance with an approved Evaluation and Probity Plan (EPP), and you signed the subsequent REOI Evaluation Report on 24 January 2017.
 - b. Stage 2 (the subject of this Procurement Plan): DIBP will utilise the Service Centre Services short-list developed through Stage 1 to undertake an RFT process utilising a Prequalified Tender method of procurement.
 - c. The indicative timetable is as follows:

STAGE	ACTIVITY	INDICATIVE TIMETABLE
STAGE ONE	REOI Issued to Market	21 October 2016
	REOI Closed	2pm in Canberra, Australian Capital Territory on 17 November 2016
	Evaluation Report Signed	24 January 2017
STAGE TWO	Issue RFT to Short Listed Respondents	16 June 2017
	Conduct Industry Brief	20 June 2017
	RFT Closing Time	2pm in Canberra, Australian Capital Territory on 20 July 2017
	Complete RFT Evaluations and Report	25 August 2017
	Complete Negotiations/Execute Contract	17 November 2017
	Commence Transition	18 November 2017
	Full Service Provision	29 June 2018

Service Requirements

7. The Department is seeking Tenders from the Stage 1 short-listed Respondents for the provision of contemporary best practice client enquiry services. The core area of scope is servicing telephone and email enquiries as currently provided by the Department's onshore and offshore Service Centres.

8. The Department is also seeking the implementation of models that may better meet the Department's objectives for its Client Enquiry Services across its other digital channels such as Social Media and Web Chat.
9. The scope of this RFT **does not** initially include:
 - a. Answering enquiries from any location other than the service centres;
 - b. Data or telephony carriage into the Department;
 - c. Providing migration advice to clients;
 - d. Answering enquiries requiring policy determinations, casework at overseas posts or high priority cases;
 - e. Visa, citizenship or trade permit processing services;
 - f. Managing the core applications that maintain the status of visa, citizenship or trade permit applications; or
 - g. Facilitating security clearances (through AGSVA) and ESCs to staff with access to visa, citizenship or trade permit applications.

s22
(1)(a)

10. s22(1)(a)(ii)

11.

12.

Evaluation Criteria

13. The detailed evaluation criteria are currently being developed, however the responses will be broadly be assessed against the following evaluation criteria:
 - a. Respondent's technical capability against the business requirements;
 - b. Respondent's approach to the implementation of the Client Enquiry Services;
 - c. Respondent's capacity and organisational capability to provide the services;
 - d. Respondent's ability to identify and implement continuous improvement;
 - e. Respondent's financial and commercial viability;
 - f. Risk; and
 - g. Price.

14. A detailed Evaluation and Probity Plan (EPP) has been developed in parallel with this Procurement Plan. The EPP details the evaluation methodology and approach.

Probity Plan

15. Due to the complex nature of the procurement, a departmental probity adviser has been appointed and an EPP has been developed.

Value for Money

16. Value for money will be demonstrated through the utilisation of a competitive procurement process. The utilisation of a two stage procurement process supports the efficient, effective, economical and ethical use of public resources.
17. All compliant responses will be assessed against the approved evaluation criteria and compared with the financial estimate outlined above. The assessment will be recorded in the Evaluation Report.
18. This procurement will also consider the requirements for 'Value for money and broader benefits to the Australian economy' introduced in the Commonwealth Procurement Rules on 1 March 2017.

Risk Assessment

19. A risk assessment has been undertaken on this procurement and overall residual risk has been assessed as Medium. A copy of this is at Attachment A. All risks have been recorded and will be managed in the DTCD's Risk Register.

Consultation

20. The Procurement and Panel Management (PPM) Section has been consulted throughout the REOI process and in the preparation of this procurement plan. PPM has confirmed that the proposed method of procurement detailed above complies with the procurement requirements of the CPRs.
21. In addition the following individuals were consulted through the REOI and RFT development process:
 - a. The Hon Peter Dutton MP, Minister for Immigration and Border Protection
 - b. Michael Manthorpe, Dep Sec, Visa and Citizenship Services Group
 - c. Christine Dacey FAS, Visa Citizenship and Management
 - d. Peta Dunn, FAS, Visa Taskforce Reform
 - e. Murali Venugopal, FAS, People Division
 - f. Anne Leo, AS, Workforce Management
 - g. Mark Sawade, AS, Strategy Architecture and Innovation
 - h. Duane Stokes, AS, Sourcing and Vendor Management
 - i. Anthony Warnock, AS Visa, Citizenship and Digital Systems
 - j. Louise Smith, AS Channel Strategies and Management
 - k. Abi Bradshaw, Regional Director, Europe
 - l. s22(1)(a)(ii), Chief Migration Officer, London
 - m. Derek Bopping, Regional Director, Americas
 - n. s22(1)(a)(ii), Chief Migration Officer, Ottawa
 - o. s22(1)(a)(ii), Director, Visa Reform Taskforce
 - p. s22(1)(a)(ii), Director, Technology Strategy
 - q. s22(1)(a)(ii), a/g Director, Principal Legal Officer
 - r. s22(1)(a)(ii), Director, Procurement and Panel Management
 - s. s22(1)(a)(ii), Director, Employment Law and Litigation
 - t. s22(1)(a)(ii), Group Finance Manager, DTCD
 - u. s22(1)(a)(ii), Director DCEE

- v. s22(1)(a)(ii) Project Manager CESP
- w. s22(1)(a)(ii) Solution Architect, CESP
- x. s22(1)(a)(ii), Business Analyst, CESP

Recommendation

22. It is recommended that you as:

- a. Deputy Secretary, Visa and Citizenship Services Group, **approve** the approach to market as detailed in this procurement plan.

Approved / ~~Not Approved~~

- b. Deputy Secretary, Visa and Citizenship Services Group, **note** that this is not a formal delegation and formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, as needed, will be sought following the evaluation of the responses, but prior to entering into a formal arrangement.

Noted / ~~Please Discuss~~

s22(1)(a)(ii)

s22(1)(a)(ii)

Malisa Golightly ✓

Director Service Centre Support

Deputy Secretary

Visa and Citizenship Services Group

18 September 2017

19 September 2017

Contact Officer: s22(1)(a)(ii)

Phone: s22(1)(a)(ii)

Attachments:

- A. Risk Assessment

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ATTACHMENT A - RISK ASSESSMENT

Likelihood Scales			Likelihood	DIBP Risk Matrix					
CHANCE Qualitative assessment of likelihood	FREQUENCY the rate at which something occurs or is repeated over a given a sample rate	PROBABILITY a statistical or actuarial assessment of likelihood		Risk Matrix	CONSEQUENCE				
					Insignificant	Minor	Moderate	Major	Severe
The event and its consequences are expected to occur in most circumstances / has occurred in Department in the last year	Has occurred 9 or 10 times in the past 10 years in this organisation or circumstances are in train that will almost certainly cause it to happen	>95%		Almost Certain	Low	Medium	High	Extreme	Extreme
The event and its consequences will probably occur in most circumstances / has occurred in Department in the past	Has occurred more than 7 times over 10 years in this organization or in other similar organizations or circumstances have such that it is likely to happen in the next few years	>65%		Likely	Low	Medium	Medium	High	Extreme
The event and its consequences might occur at some time in most circumstances / has occurred at least once in the Department	Has occurred in this organization more than 3 times in the past 10 years or occurs regularly in similar organizations or is considered to have a reasonable likelihood of occurring in the next few years	>35%		Possible	Low	Low	Medium	High	High
The event and its consequences is not expected to occur in most circumstances / has not occurred in the Department but has occurred in other government entities	Has occurred 2 or 3 times over 10 years in this organization or similar organizations	<35%		Unlikely	Low	Low	Low	Medium	High
The event and its consequences will only occur in exceptional circumstances / is possible, but is not known to have occurred in the past	Has occurred or can reasonably be considered to occur only a few times in 100 years.	<5%		Rare	Low	Low	Low	Medium	Medium

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Item	Risk	Cause	Likelihood	Consequence	Mitigation	(Final) Risk Level
1.	Sydney Service Centre's (SSC's) current service levels are not maintained	SSC Staff react negatively to the RFT and decide to leave their jobs earlier than desired which impacts morale and performance of remaining staff as well as increasing workloads on individuals.	Likely	Major	A staff assistance package will be considered to assist in retention of staff. Also, a Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	High
2.	Staff and Industrial consultation (engagement) process affects/delays RFT release and/or approvals	DIBP staff and/or CPSU negatively react to RFT messaging and create unrest and threaten industrial action	Possible	Minor	A Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	Low
3.	Responses to RFT are poor	The RFT does not clearly articulate what the Department is seeking	Possible	Minor	Information from Stage 1 of the procurement process will be used to refine the requirements for the RFT.	Low
4.	The RFT lacks detail that industry may require to provide sufficiently detailed responses.	Too many options constrain the ability for the Department to produce a detailed set of requirements to be responded to.	Likely	Moderate	The options will be socialised with various higher level stakeholders for a decision thus allowing refinement of a single requirements set for the RFT.	Low
5.	There is insufficient time to complete all activities associated with the RFT	Delays throughout the procurement process impact implementation timeframes.	Likely	Moderate	Executive sponsorship and engagement. Detailed and managed project plans.	Medium

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Australian Government
Department of Immigration and Border Protection

EVALUATION AND PROBITY PLAN

Request for Tender (DIBP RFT 11/16)

Client Enquiry Services

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1.0	24/07/2017	s22(1)(a)(ii)	Original Approval	ADD2017/2066447
1.1	23/08/2017	s22(1)(a)(ii)	Revised Delegate and minor edits	Revision 9

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INTRODUCTION

This Evaluation and Probity Plan relates to the following process:

Number: DIBP RFT 11/16

Requirement: The Department is seeking Responses from potential suppliers shortlisted following an open approach to market Request for Expressions of Interest procurement process for the provision of innovative solutions to enhance the Department's Client Enquiry Services (the Services).

This Evaluation and Probity Plan sets out:

- PART A: The team that will be responsible for evaluating Responses to the Request for Tender (RFT), and their roles and responsibilities.
- PART B: The processes that will be used to ensure probity is maintained throughout the RFT process.
- PART C: The processes that will be used to evaluate Responses to the RFT process.
- PART D: The criteria that will be used to evaluate Responses to the RFT process.

1. Definitions

1.1. In this Evaluation and Probity Plan:

- (a) **Evaluation Committee** or **EC** means the committee set out in Part A of this Plan, who will evaluate the Responses.
- (b) **Evaluation Criteria** means the criteria, set out in Part D of this Plan and incorporated into the RFT Documentation, against which Responses will be evaluated.
- (c) **Evaluation Process** means the processes set out this Plan, which will be followed by the Evaluation Team to evaluate Responses.
- (d) **Evaluation Report** means the report to be provided from the Evaluation Committee to the Delegate, making recommendations about the RFT.
- (e) **Evaluation Team** means the team responsible for the evaluation of Responses, and consists of the Evaluation Committee, the Steering Committee, RFT support and specialist advisors.
- (f) **RFT** means the process by which the Department will seek supply of the Requirement identified above.

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- (g) **RFT Documentation** means the document seeking Responses to the RFT, and any associated document, which is published by DIBP in connection with the RFT.
- (h) **Respondent** means a tenderer that has submitted a Response to this RFT.
- (i) **Responses** means responses to the RFT submitted by tenderers.
- (j) **Steering Committee** or **SC** means the committee set out in Part A of this Plan, who will initially consider the draft Evaluation Report.

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For Official Use Only**PART A - EVALUATION TEAM****2. Evaluation Team**

2.1. The evaluation of all Responses will be the responsibility of the Evaluation Team. The Evaluation Team consists of:

- (a) an Evaluation Committee (EC);
- (b) a Steering Committee (SC);
- (c) specialist advisors to the EC; and
- (d) RFT support.

2.2. The EC consists of a Chair, a Technical Evaluation Team (TET) and a Commercial Evaluation Team (CET). The lead of the TET will be the Deputy EC Chair. EC members are:

- (a) s22(1)(a)(ii), Director, Service Centre Support – (Chair and TET Member);
- (b) s22(1)(a)(ii) Manager Sydney Service Centre – (Lead – TET, Deputy Chair);
- (c) s22(1)(a)(ii), Solution Architect, Channel Management Branch – (TET Member);
- (d) s22(1)(a)(ii) Business Analyst, Service Centre Support - (TET Member);
- (e) s22(1)(a)(ii) Visa Reform Implementation Project – (Lead CET); and
- (f) s22(1)(a)(ii) Finance Manager, Policy Group Finance – (CET Member).

2.3. The SC consists of:

- (a) First Assistant Secretary, Visa Delivery Transformation Division - (Chair);
- (b) Assistant Secretary, Channel Management Branch – (Deputy Chair);
- (c) Chief Finance Officer – (Member);
- (d) General Counsel, First Assistant Secretary, Legal Division – (Member);
- (e) Assistant Secretary, Procurements & Contracts Branch – (Member);
- (f) Assistant Secretary, Strategy Architecture and Innovation Branch – (Member); and
- (g) Chief Audit Executive, First Assistant Secretary, Integrity Security & Assurance Division – (Observer);

2.4. The EC may obtain specialist advice as required. The following specialist advisors have been arranged for this RFT:

- (a) Legal Advisor: Senior Legal Officer, Commercial and Employment Law Branch;
- (b) Probity Advisor: Director, McGrathNicol;
- (c) Business Requirements: Senior Business Analyst, Client Enquiry Services Project, Channel Management Branch;
- (d) Contract Management Advisor: Assistant Director Service Delivery Partners, Visa Reform Taskforce;

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- (e) Service Centres' System Support Advisor: Director Digital Client Enquiry Support, Channel Management Branch;
- (f) Director Client Service Transformation, Channel Management Branch
- (g) Service Centres' Process Advisors: Senior Migration Officer, Ottawa and ^{s22(1)(a)}
[redacted] Service Support Manager, Sydney Service Centre; _(ii)
- (h) Architecture Advisor: Director Technology Architecture, Strategy Architecture and Innovation Branch;
- (i) Transition Adviser: Assistant Director, Service Centre Support Channel Management Branch
- (j) Procurement Specialist: Procurement and Panel Management, Sourcing and Vendor Management Branch
- (k) Web Adviser: Director, .Web Services and Correspondence, Channel Management Branch
- (l) ImmiAccount Adviser: . Director, Visa & Citizenship Helpdesks, Channel Management Branch
- (m) Australian Border Protection Specialist: . Superintendent, National Border Programme
- (n) Financial Capacity and Quality Specialist: KPMG.

2.5. RFT support will be provided by (as appropriate to the task):

- (a) Service Centre Support Section.
- (b) Sourcing and Vendor Management Branch.
- (c) Procurement and Contracts Branch.

2.6. The DIBP Delegate for this RFT is:

- (a) Prior to 28 July 2017 – FAS Visa Delivery Transformation Division.
- (b) Post 28 July 2017 – DepSec Visa and Citizenship Services Group.

3. Roles and Responsibilities

3.1. All members of the Committees and other officers and advisors involved in the evaluation must be fully prepared for the Evaluation Process. This will involve, as a minimum, each person:

- i. reading and ensuring that they understand the published RFT Documentation;
- ii. understanding the relationship between the Evaluation Criteria and the requirements in the published RFT Documentation; and
- iii. understanding the Evaluation Processes outlined in this Plan (as relevant to them).

3.2. Evaluation Committee

- (a) The EC will evaluate the submitted Responses, including:
 - i. perform a detailed examination and evaluation of the compliant Responses against the Evaluation Criteria;

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- ii. evaluate and make recommendations on any alternative proposals or options which are part of a compliant Response; and
 - iii. ensure that quality assurance and probity is maintained.
- (b) The EC is responsible for ensuring that the RFT process is open and transparent and that related actions by the Department are documented, defensible and substantiated in accordance with legislation and Government policy.

Any member of the EC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.3. **Steering Committee**

- (a) The SC will provide oversight of the RFT process, including:
- i. review the draft Evaluation Report;
 - ii. provide Responses to the EC when necessary, including providing its comments and amendments regarding the draft Evaluation Report; and
 - iii. approving a recommendation for the Delegate's consideration.

Any member of the SC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.4. **Chairs of the Evaluation Committee and the Steering Committee**

- (a) The respective committee Chairs will coordinate and manage the activities of the applicable Committee, ensuring that actions and procedures are instituted to support the established standards of probity and official conduct during the Evaluation Process.
- (b) In particular, the Chairs of the applicable Committee will:
- i. identify and arrange resources to facilitate the objectivity in the Evaluation Process;
 - ii. monitor resources to ensure deadlines are met;
 - iii. manage adherence to this Plan;
 - iv. ensure suitable records of issues and correspondence are maintained to support the Evaluation Process;
 - v. provide regular progress reports to the Delegate and summary reports as required;
 - vi. confirm that all evaluation issues have been addressed in the Evaluation Report;
 - vii. separately document any dissenting views between Evaluation Team members;
 - viii. ensure an audit trail is maintained;
 - ix. ensure adherence to processes set out in this Evaluation and Probity Plan such that:
 - (i) Responses are objectively and consistently assessed in accordance with the published RFT Documentation;
 - (ii) confidential information is secured;

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- (iii) conflict of interest issues are identified and addressed; and
 - (iv) the RFT process is defensible; and
- x. refer queries, facilitate any examination of the processes, and liaise with the Legal Advisor and the Probity Advisor as required.
- (c) A quorum for the EC will consist of the Chair, or Deputy Chair, and two (2) other EC personnel; and
- (d) A quorum for the SC will consist of two (2) participants, regardless of position. When both the Chair and Deputy Chair are not in attendance the first action for the SC will be to agree an acting Chair.
- (e) If a Committee consists of an even number of members, the Chair will have a casting vote on any matter of dispute where the members are equally divided.

3.5. Deputy Chair of the Evaluation Committee and the Steering Committee

- (a) The person appointed Deputy Chair will be responsible for:
 - i. assisting the Chair where necessary;
 - ii. progressing activities in the Chair's absence; and
 - iii. having a casting vote in the absence of the Chair if required.

3.6. RFT support

- (a) The person(s) appointed as RFT support are responsible for:
 - i. publishing documents on AusTender;
 - ii. coordinating addenda releases, including clearances;
 - iii. downloading, registering and recording Responses from AusTender;
 - iv. screening all registered Responses to identify incomplete or non-compliant Responses with the RFT Documentation;
 - v. provide copies of RFT Register and Responses to the EC and SC, as set out in this Procurement and Evaluation Plan;
 - vi. co-ordinating meetings of the EC and SC;
 - vii. taking minutes and keeping an audit trail of all EC and SC meetings and decisions;
 - viii. arranging for specialist advice as required by the EC and SC;
 - ix. providing procurement and compliance advice; and
 - x. providing advice and guidance on the overall risk presented by the RFT process.
- (b) Persons providing RFT support are not part of the EC or SC and will not participate in any decisions involved in the Evaluation Process.

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3.7. Specialist advisors:

- (a) **Legal Advisor:** The Legal Advisor will provide advice as requested to assist the EC and SC in relation to legal and regulatory matters and in ensuring that the legal aspects of all Responses are analysed uniformly, objectively and transparently. The Legal Advisor will provide advice as requested to facilitate the EC's assessment of Responses, particularly in its assessment of legal risks. The Legal Advisor may seek assistance from external legal sources to assist in providing these functions.
- (b) **Probity Advisor:** The Probity Advisor will assist the EC and SC in ensuring that all Responses are analysed fairly, uniformly and transparently, and will be responsible for providing a probity briefing to the Evaluation Team (see Part B of this Plan below). The Probity Advisor may seek assistance from external probity sources to assist in providing these functions.
- (c) **Contract Management Advisor:** If required, the Contract Management Advisor will assist the EC and SC in analysing the contract management issues presented by Responses.
- (d) **Service Centres' System Support Advisor:** If required, the Service Centres' System Support Advisor will assist the EC and SC in analysing the impacts on the support systems for the service centres presented by Responses.
- (e) **Service Centres' Process Advisors:** If required, the Service Centres' Process Advisors will assist the EC and SC in analysing the impacts on the business processes for the service centres presented by Responses.
- (f) **Architecture Advisor:** If required, an Architecture Advisor will assist the EC and SC in providing advice on the Architecture elements (including ICT and security) of the RFT.
- (g) **Cyber Security Advisor:** If required, a Cyber Security Advisor will assist the EC and SC in providing advice on the cyber security elements of the RFT.

3.8. Delegate:

- (a) The Delegate is responsible for:
 - i. considering the recommendations put forward by the EC as approved by the SC, following completion of the Evaluation Process;
 - ii. resolving any issues in relation to any conflict of interest which may be raised in relation to the Chairs of the EC and the SC or which cannot be resolved to the satisfaction of the Chair(s) and the Probity Advisor. The Delegate will be the final arbitrator in resolving issues of conflict of interest; and
 - iii. having considered the Evaluation Report and made all reasonable enquiries, making a decision on a preferred supplier and commencing contract negotiations with the intent of awarding a contract(s).

3.9. In addition to the specific roles and responsibilities identified above, Committee members and all other officers and advisors involved in the Evaluation Process must be fully aware of, and comply with, all requirements of:

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- (a) the Commonwealth Procurement Rules (as updated from time to time: available at www.finance.gov.au), especially with respect to ethics and fair dealing with parties submitting, or invited to submit, Responses;
- (b) the Australian Government policy Ethics and Probity In Procurement (available at www.finance.gov.au);
- (c) DIBP's fraud control and anti-corruption plan (<https://bordersnet.immi.local/LegalandRisk/Documents/fraud-control-anti-corruption.pdf>) ; and
- (d) all other relevant guidelines that relate to official conduct of Commonwealth public servants.

4. Addenda Handling**4.1. Roles and Responsibilities**

- (a) In consultation with RFT support and the Probity Advisor, Channels Strategy and Management Branch (or other personnel as deemed necessary by the Delegate) will be responsible for the preparation of addenda to the RFT;
- (b) RFT support is responsible for quality assuring addenda, including ensuring Probity Advisor clearance has been obtained prior to publication of the addenda;
- (c) The Delegate is responsible for approving the release of addenda;
- (d) RFT support is responsible for publishing addenda on AusTender; and
- (e) The Probity Advisor is responsible for registering the addenda in the probity register.

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For Official Use Only**PART B - PROBITY ASPECTS****5. Process**

- 5.1. The evaluation will be conducted in a systematic and structured manner as set out in the published RFT Documentation and this Plan to ensure an effective and ethical RFT process can be demonstrated.
- 5.2. The purpose of the evaluation is to identify and document the Response(s) that satisfy the requirements specified in the published RFT Documentation.

6. Ethics and Fair Dealing

- 6.1. Paragraph 6 of the Commonwealth Procurement Rules states 'The Australian Government promotes the proper use and management of public resources'. As a result, it is essential that a framework of ethics and fair dealing is established from the start of the Evaluation Process. A specific aspect of ethical behaviour relevant to procurement is an overarching obligation to ensure that all Respondents are treated equitably. All Respondents are entitled to have their Responses assessed ethically and fairly and for this to be seen to have been done. Further to the requirements in paragraph 6.6 of the Commonwealth Procurement Rules, the following are critical to ensuring ethical behaviour in the RFT:
- (a) seeking prompt advice where probity issues arise;
 - (b) not accepting gifts or hospitality;
 - (c) being scrupulous in the use of public property; and
 - (d) complying with all duties and obligations in:
 - i. the information privacy principles of the *Privacy Act 1988*;
 - ii. the security provisions of the *Crimes Act 1914*; and
 - iii. where applicable, the Australian Public Service's Code of Conduct as set out in the *Public Service Act 1999*.
- 6.2. All persons involved in the Evaluation Process must demonstrate complete impartiality to, and equitable treatment of, all Responses. A structured, objective, Evaluation Process applying a consistent methodology to all Responses will enable this to be achieved.

7. Adherence to Evaluation Criteria

- 7.1. In conducting the evaluation of the Responses, the EC and the SC must adhere to the published Evaluation Criteria.

8. Accountability and Transparency - Audit Trail

- 8.1. A clear audit trail is necessary to:
- (a) ensure that the process is fully documented;
 - (b) demonstrate that EC and SC members have acted objectively and logically; and
 - (c) substantiate the basis for the recommendations in the Evaluation Report.
- 8.2. All EC and SC meetings will be minuted and the Chair of the meeting will approve the minutes as an accurate record prior to the following meeting, and the minutes will then be confirmed as an accurate record at the following meeting. The minutes will be filed as part of the audit trail for the evaluation.

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- 8.3. The EC and SC will ensure that appropriate audit trails are maintained, including identification of who performs what action at what time. The EC will ensure that any action involving the allocation of, or amendment to, scores or independent reviews etc. is properly documented. The EC and SC will ensure sufficient documentation supporting its reasons for all decisions is maintained.
- 9. Gifts, Entertainment and Hospitality**
- 9.1. During the Evaluation Process, Evaluation Team members must abide by the Department's Gifts, Entertainment and Hospitality policy (<https://bordernet.immi.local/FinancialManagement/Documents/accountability-authority-instructions/accountable-authority-instructions.pdf>).
- 9.2. Any offer of gifts, hospitality or entertainment must be reported to the EC or SC Chair immediately. If the offer of gifts or entertainment is made to the EC or SC Chair, the Chair must immediately report the offer to the Delegate.
- 9.3. The Chair (or Delegate), in consultation with the Probity Advisor, will determine what, if any, action is required in relation to any offer of gifts, hospitality or entertainment.
- 10. Conflicts of Interest**
- 10.1. All persons involved in the RFT process (relevant persons) must abide by the Australian Public Service Code of Conduct requirements in respect of conflicts of interest.
- 10.2. In particular, all persons must declare any real or apparent conflict of interest to the EC or SC Chair as applicable (or to the Delegate if the conflict relates to the Chair) before commencing the Evaluation Process.
- 10.3. Conflict of interest declarations should be in the form set out at **Attachment A**.
- 10.4. A conflict of interest will exist if:
- (a) through any current or proposed future dealings or relationships with a Respondent or any related body, a relevant person or their family stands to gain a benefit or advantage from the outcome of the Evaluation Process; or
 - (b) there is any other reason why a relevant person may not deal with a Respondent in an objective manner.
- 10.5. All relevant persons must submit new conflict of interest declarations as soon as any circumstances change which may raise an actual or potential conflict of interest.
- 10.6. Upon receipt of a declaration of an actual or potential conflict of interest, the EC or SC Chair as applicable (or the Delegate if the conflict relates to the Chair) will decide in consultation with the Probity Advisor on the course of action to be taken to resolve the matter. If, in the opinion of the Chair (or Delegate) in consultation with the Probity Advisor, the conflict of interest is not able to be resolved, the person in relation to whom the conflict exists will be excluded from the RFT process (or a particular step(s) in the Evaluation Process).
- 10.7. The Chair may refer any conflict of interest issues to the Delegate, and must do so if the conflict of interest cannot be resolved in the first instance to the satisfaction of both the Chair and the Probity Advisor.

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For Official Use Only**11. Communication**

- 11.1. The procedures and protocols in this section will be implemented to minimise the risk of any improper communication occurring that could influence the probity of the RFT process.
- 11.2. All members of the Evaluation Team are required to comply with the procedures and protocols in this section.
- 11.3. In this RFT process, probity advice is to be provided to all Evaluation Team members as follows:
- (a) no discussions will be held with, or on behalf of, any potential Respondent about the RFT or the decision-making processes except in the manner provided for in this Plan or the published RFT Documentation;
 - (b) no potential Respondent will receive, or should be perceived to have received, more information than is available to all potential Respondents, nor will they receive any information in advance of its being made available generally to all potential Respondents;
 - (c) where appropriate, information provided in response to questions from a potential Respondent will be made available on AusTender (on a non-attributable basis). In addition, all alterations, corrections and notices in connection with the published RFT Documentation will also be made available on AusTender; and
 - (d) contents of all communication to potential Respondents after release of the RFT Documentation must be agreed by the Delegate and the Probity Advisor.
- 11.4. No assistance is to be provided to any potential Respondent, specifically:
- (a) details of any communication or approaches from or on behalf of potential Respondents will be fully documented;
 - (b) all communications from potential Respondents during the RFT process will be through the email address of the Contact Officer identified in the published RFT Documentation;
 - (c) potential Respondents will not be advised on how to develop their Responses apart from guidance that has been made publicly available to all potential Respondents;
 - (d) any past or intended communications with, or the conduct of, potential Respondents that may involve breaches of the probity of the process or alleged illegality, will be referred to the Probity Advisor for investigation and appropriate action; and
 - (e) Responses will not be communicated to people or positions outside those named in this Evaluation and Probity Plan.
- 11.5. All media contact must be managed and approved through the EC Chair. RFT support and the Probity Advisor will consult with the National Communications Branch as appropriate, in order to recommend a response for the Chair's approval.

12. Industry Briefing

- 12.1. An industry briefing will be offered to all potential Respondents prior to the closing time for Responses.

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- 12.2. Potential Respondents will be required to register their attendance at the industry briefing.
 - 12.3. The industry briefing will take the form of a prepared presentation.
 - 12.4. If there are any questions or further discussions at the industry briefing, those questions and answers will be released to all potential Respondents in the form of addenda to the published RFT Documentation.
 - 12.5. The Probity Advisor may attend the industry briefing (if required) to ensure that probity requirements are met during and after the briefing.
- 13. Confidentiality**
- 13.1. Responses will be treated as confidential as described in the published RFT Documentation.
 - 13.2. Responses will be kept secure and will not be used so as to prejudice a fair, open and competitive process.
 - 13.3. Commonwealth public servants who are members of the Evaluation Team will be required to complete a Confidentiality Acknowledgement (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
 - 13.4. Any members of the Evaluation Team who are not Commonwealth public servants will be required to complete a Deed of Confidentiality (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
 - 13.5. No discussion will occur with any person outside of the Evaluation Team and the Delegate regarding any aspect of the RFT or the Evaluation Process without the approval of the EC Chair in consultation with the Probity Advisor.
- 14. Security**
- 14.1. Dedicated, lockable containers and secure IT storage devices will be used to store Responses and other RFT related documentation. The containers and devices will be maintained as a secure storage area in which all sensitive documentation will be kept when not in use by the Evaluation Team.
 - 14.2. A copy of each Response will be made available to each EC member. No additional copies or copying of any part of the Responses will be permitted without the written authorisation of the EC Chair.
 - 14.3. All copies of Responses and other material associated with the Responses and/or the evaluation will be kept in the secure storage areas or a designated evaluation room and will not be left unattended during the Evaluation Process or removed from the secure storage areas or the designated evaluation room without the express permission of the EC Chair.
 - 14.4. RFT documentation will be marked as 'For-Official-Use-Only' or 'Sensitive'.
- 15. Probity Briefing and Signoffs**
- 15.1. Apart from the Probity Advisor, all Evaluation Team members must attend an appropriate probity briefing prior to their involvement in the Evaluation Process. The probity briefing will be conducted by the Probity Advisor.
 - 15.2. The Probity Advisor will be required to provide confirmation that all probity aspects of the RFT have been satisfactorily followed at the following stages of the Evaluation Process:
 - (a) before submission of this Plan to the Delegate;

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- (b) before the release of the RFT Documentation to the market;
- (c) before the exclusion of any Response from further consideration (including through a short listing process); and
- (d) before the submission of the final Evaluation Report to the Delegate.

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- 16.1. The EC will evaluate Responses against the Evaluation Criteria and will consider the overall risk presented by the Respondents.
- 16.2. The Evaluation Process will be undertaken using the following steps:
 - (a) Step 1: Receipt and Registration of Responses
 - (b) Step 2: Initial Screening
 - (c) Step 3: Technical Evaluation
 - (d) Step 4: Commercial Evaluation (non-technical Evaluation Criteria)
 - (e) Step 5: Overall Value for Money Assessment (including Viability and Risk)
 - (f) Step 6: Evaluation Report
 - (g) Step 7: Steering Committee's consideration of the Evaluation Report
 - (h) Step 8: Notification and Debriefing.

17. Timing

- 17.1. The proposed timetable for the process is set out in **Attachment C**. The dates in the timetable may change in accordance with the Department's requirements.

18. Step 1: Receipt and Registration of Responses

- 18.1. As soon as practicable after the closing time for the RFT, RFT support will download the Responses from AusTender.
- 18.2. A minimum of two RFT support personnel will register and record all Responses received before the closing time for the RFT on a Register. That Register will be signed by all personnel who conducted the receipt and registration of the Responses.
- 18.3. Any Responses received after the closing time for the RFT and any disputes or issues regarding receipt of Responses will be managed by RFT support and the Probity Advisor.
- 18.4. As soon as practicable after finalisation of the receipt and registration process, RFT support will provide the EC Chair with, or appropriate electronic access to, one copy of the Register and one copy of all Responses. The EC Chair will not distribute the Responses until the initial screening (Step 2) has been completed.

19. Step 2: Initial Screening

- 19.1. RFT support will screen all registered Responses to identify any that:
 - (a) fail to comply with any Conditions of Participation identified in the RFT Documentation (other than financial and commercial viability which will be assessed at Step 5);
 - (b) fail to comply with any Minimum Content and Format Requirements identified in the RFT Documentation;
 - (c) contain unintentional errors of form; or
 - (d) are otherwise non-compliant with the RFT Documentation.

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- 19.2. Subject to subclause 19.5, the EC will exclude any Responses from further consideration which have not complied with any of the Conditions of Participation or any of the Minimum Content and Format Requirements.
- 19.3. In consultation with the Probity Advisor, the EC may also exclude a Response from further consideration where, in the EC's reasonable opinion, the Response is incomplete or is otherwise so clearly non-competitive, that it is likely to be evaluated so as to represent no material value for the Commonwealth. The EC may, however, decide to consider these Responses and seek clarification (in accordance with paragraph 19.6 below) if it believes that this is appropriate.
- 19.4. Screening is an ongoing process and is therefore subject to consultation with RFT support and the Probity Advisor. The EC may decide during any stage of the Evaluation Process to exclude a Response from further consideration on the basis that it falls within the categories described in this step.

Unintentional errors of form

- 19.5. If the EC considers that there are unintentional errors of form in a Response, the EC may ask the Respondent to correct or clarify the error. However, no material alteration or addition to that Response will be permitted. Any consideration to issue requests for correction or clarification of errors of form will be referred to the Probity Advisor for advice.

Clarifications

- 19.6. Clarification of Responses may be sought at any time during the Evaluation Process. All requests for clarification in relation to a Response will be in writing and from the Contact Officer specified in the published RFT Documentation, and answers from Respondents must be in writing and submitted in accordance with the RFT Documentation.
- 19.7. The EC Chair should consult the Probity Advisor before issuing any clarification question. Additional or new information must not be sought unless it is by way of clarification of elements of the information already submitted with the Response.
- 19.8. Clarifications will focus on addressing an ambiguity, error or omission that is relevant to the evaluation of a Response. Where a clarification is of a more general nature, then advice/information will be requested from all Respondents who have submitted a Response.

Distribution of Responses

- 19.9. The technical and financial evaluation of Responses will be undertaken independently of each other to ensure one element does not unduly influence the other. RFT support will be responsible for separating the technical and the financial elements of the Responses. In particular, no pricing detail is to be supplied to the TET.
- 19.10. RFT support will provide the EC Chair with, or appropriate electronic access to, the separated Responses. The EC Chair will provide the TET and CET with appropriate access to the Responses.

20. Step 3: Technical Evaluation

- 20.1. The TET lead, in consultation with the EC Chair, is responsible for ensuring the Technical Evaluation is completed in a timely manner and in accordance with this EPP.

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Scoring of technical Evaluation Criteria

- 20.2. The Members of the TET will consider all relevant information for each technical Evaluation Criterion (**PART D** below sets out those Evaluation Criteria that are technical criteria) provided in each Response and conduct an objective analysis against each technical Evaluation Criterion. Where appropriate, the TET may use material tendered in response to one Evaluation Criterion in the evaluation of other Evaluation Criteria.
- 20.3. The TET may also make independent enquiries with any relevant person or entity about any matter that may be relevant to the evaluation of any Response, and consider the results of their enquiries. The independent enquiries must be consistent with this EPP and the TET must seek agreement from the EC Chair prior to making such independent enquiries. The TET, however, must not incorporate new information and/or material into a Response. If the enquiry result is adverse or contrary to what is provided in the Response, the EC Chair, in consultation with RFT support and the Probity Advisor, will consider the next appropriate step, within the framework of the RFT Documentation.
- 20.4. A minimum of two members of the TET will score each technical Evaluation Criterion for each Response. The TET members will then meet and discuss their individual scores, and agree a score for each technical Evaluation Criterion for each Response
- 20.5. If alternative Responses are received and accepted for evaluation (in accordance with the relevant provisions of the RFT Documentation), a technical evaluation of the alternative Responses will be undertaken upon completion of the technical evaluation of complying Responses.
- 20.6. Each TET member will assess each technical Evaluation Criterion using objective scoring. The 11 Point Evaluation Scale in **Attachment D** proposes a rating scale with commentary and guidance to assist members of the TET to remain objective in applying scoring for the technical Evaluation Criteria. The evaluation scale is intended as a guide for the TET members to determine the score to be given to a Response.
- 20.7. Weightings will then be applied to each score for each technical Evaluation Criteria in accordance with the weightings specified in **PART D** below.

Technical evaluation risks

- 20.8. Each member of the TET is responsible for recording all risks identified through the technical evaluation process. Any risks that are not addressed or mitigated through site visits, presentations or referee checks must be presented to the EC for consideration in assessing Value for Money.

Site visits, presentations, referee checks

- 20.9. After reviewing the Responses, in order to appropriately and completely evaluate the Response, the TET may decide to:
 - (a) conduct visits to Respondents' sites;
 - (b) seek presentations by Respondents;
 - (c) conduct referee checks;
 - (d) discuss with, or visit, customers or subcontractors of Respondents, whether or not the customers are provided as referees by a Respondent; and/or
 - (e) carry out independent enquiries in relation to any matter that may be relevant to the evaluation of a Response.

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- 20.10. The EC may require Respondents to give presentations of their Response. Presentations may be held in conjunction with site visits. The TET will confirm schedule times with the relevant Respondents.
- 20.11. Where interviews or presentations are conducted, the EC will decide which questions will be asked of all Respondents and, if applicable, which questions will apply to specific Respondents.
- 20.12. The EC Chair, in consultation with the lead of the TET, will designate a member(s) of the TET to undertake referee checks if required. Before any referee checks are undertaken, the EC will agree a list of questions that will be asked as part of each referee check and the format that will be used to record answers.
- 20.13. Following the conclusion of any site visits, presentations, referee checks and/or obtaining of further information through independent enquiries, the TET will, in light of the further information received, review and, where applicable, revise scores for the technical Evaluation Criteria.

Setting aside

- 20.14. At any stage of the technical evaluation the TET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 20.15. At any stage of the technical evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

21. Step 4: Commercial Evaluation (non-technical Evaluation Criteria)

- 21.1. The CET lead, in consultation with the EC Chair, is responsible for ensuring the Commercial Evaluation is completed in a timely manner and in accordance with this EPP.
- 21.2. The Commercial Evaluation consists of:
- (a) a Financial Assessment;
 - (b) a financial viability assessment; and
 - (c) a commercial assessment.
- 21.3. The Commercial Evaluation is to be conducted independently of the Technical Evaluation; however it may be conducted concurrently with the Technical Evaluation.

Financial assessment

- 21.4. The purpose of the Financial Assessment is to ensure that pricing provided in the Responses is normalised across the Responses to allow a fair and valid assessment of the costs for each Response in order to undertake a Value for Money assessment.
- 21.5. Financial Assessments may be conducted only on Respondents that have not been previously set aside.

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For Official Use Only***Financial viability assessment***

- 21.6. The CET members of the EC will also undertake and document financial viability assessments based on standard industry practice, utilising external financial resources to assist in this process.
- 21.7. Financial viability assessments may be conducted only on Respondents that have not been previously set aside.
- 21.8. The CET members will discuss their findings for each Respondent with the EC Chair, who may direct further work to be done if the EC Chair is not satisfied with the level of justification for the assessed financial viability of any Respondent.

Commercial assessment

- 21.9. The commercial assessment will identify the commercial risks associated with each Response including any proposed amendments to the commercial terms proposed in the draft contract issued with the RFT.

Setting aside

- 21.10. At any stage of the financial evaluation the CET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 21.11. At any stage of the financial evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

22. Step 5: Overall Value for Money Assessment (including Viability and Risk)***Proposed confidential information***

- 22.1. Where a Response indicates that a potential supplier wishes the Department to keep certain information confidential, the EC may refer the matter to the Legal Advisor for advice. The Legal Advisor will advise on the issues raised and assess whether these concerns are likely to be able to be resolved or represent a significant risk to the Department.
- 22.2. The EC will consider any report of the Legal Advisor.

Assessing risks

- 22.3. In determining the risk profile presented by each Respondent, the EC will assess risk in terms of the likelihood of the Respondent achieving what has been offered in its Response and any other risk associated with the Response. Guidance on the risk assessment process is in **Attachment E**.
- 22.4. The EC members will need to reach a consensus as to whether a risk actually exists, the likelihood of the risk occurring and the consequences for the Department if the identified risk eventuates.

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For Official Use Only***Risk and score revision***

- 22.5. Following the completion of the risk assessment process, the EC will review and, where applicable, revise scores or rankings for each Response.

Setting aside

- 22.6. If, in the opinion of the EC, a risk is deemed to actually exist and the mitigated consequence(s) of that risk is too great for the Department to accept, the EC may set aside a Response from further evaluation. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

Value for Money

- 22.7. Following the completion of the independent Technical and non-Technical evaluations of the Responses, the EC will undertake an overall assessment of Value for Money taking into account the results of the Technical evaluation, the non-Technical evaluation and all identified risks (including the financial viability of the Respondents).
- 22.8. The EC will determine a ranking of the Responses based on the overall value for money assessment.
- 22.9. The EC may recommend one or more preferred tenderers to enter into contract negotiations with including identifying risks and key expected outcomes from any subsequent negotiation.

23. Step 6: Evaluation Report

- 23.1. The EC will prepare an Evaluation Report, which includes the following:
- (a) an executive summary (if the EC considers this would be useful);
 - (b) an outline of the RFT processes followed by the EC;
 - (c) evaluations with scores, any comparative evaluation adjustments used during the evaluation and the overall assessment of Responses;
 - (d) a summary of the EC's assessment of each Response; and
 - (e) recommendations as to the preferred tenderer(s).
- 23.2. The EC may submit a draft Evaluation Report to the SC and/or the Probity Advisor for guidance on its development.
- 23.3. Members of the EC will sign the Evaluation Report to indicate their concurrence with it. Dissenting members may submit an alternative report.
- 23.4. The EC Chair will submit the Evaluation Report to the Probity Advisor for endorsement.

24. Step 7: Steering Committee's consideration of the Evaluation Report

- 24.1. After receiving endorsement from the Probity Advisor, including making any revisions this advisor considers necessary, the EC Chair must submit the Evaluation Report to the SC for endorsement.

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- 24.2. The SC must consider the Evaluation Report and any alternative reports. Where the SC seeks to make material alterations to the Evaluation Report, the SC Chair will discuss these alterations with the EC.
- 24.3. The SC Chair will annotate any changes on the Evaluation Report and seek endorsement of the SC. The members of the SC will indicate their endorsement of the Evaluation Report, including any annotated changes, by signing the report. Once endorsed by the SC, the SC Chair must resubmit the draft Evaluation Report to the Probity Advisor for their endorsement.
- 24.4. The Evaluation Report, as endorsed by the SC and the Probity Advisor, will then be submitted to the Delegate for approval.

25. Step 8: Notification and Debriefing

- 25.1. Notification of the outcomes of the RFT will be undertaken in various stages for the purposes of letting Respondents know the outcome as soon as practicable.
- 25.2. Note: Respondents are not to be informed that they are unsuccessful until a contract has been awarded.

Responses set aside

- 25.3. Once the SC has agreed to set aside a Response, the EC Chair will be responsible for advising the Respondent in writing that they are currently not the preferred tenderer.

Preferred Tenderer

- 25.4. Once the Delegate has selected one or more preferred tenderers, the EC Chair will be responsible for informing the preferred tenderer(s) of their preferred tenderer status and inviting them to negotiations. The EC Chair will be responsible for advising all other Respondents in writing that they are currently not the preferred tenderer.

Contract award

- 25.5. Once a contract has been awarded, the EC Chair will be responsible for notifying all Respondents in writing, including giving the opportunity to attend a verbal debriefing.

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For Official Use Only**PART D - EVALUATION CRITERIA****26. Evaluation Criteria**

- 26.1. As set out in Part C, the Responses will be evaluated by the TET and CET members of the EC. The TET will evaluate the responses against the weighted Technical Criteria. The CET will evaluate the Responses against the unweighted Non-Technical Criteria.
- 26.2. Compliance checks will be undertaken by RFT support against the Conditions for Participation. In addition to the Conditions for Participation, requirements identified as 'must' are also mandatory in accordance with the Commonwealth Procurement Rules.
- 26.3. The technical Evaluation Criteria are broken into Evaluation Sub-Criteria to assist in evaluating the responses. Each of the requirements in the Statement of Requirements will be mapped to an Evaluation Criteria or Evaluation Sub-Criteria. The weightings of the Evaluation Sub-Criteria will not be published to minimise the risk that Respondents will neglect to provide adequate responses to lower weighted sub-criteria.

27. Conditions for Participation

- 27.1. The Conditions for Participation for this RFT are:
- (a) The Tenderer must submit the Tender by the Closing Time;
 - (b) The Tenderer must be financially and commercially viable to perform the Services;
 - (c) The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim;
 - (d) The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the Charter of the United Nations Act 1945 (Cth); and
 - (e) The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the Charter of United Nations (Dealing with Assets) Regulations 2008 (Cth).

28. Minimum Content and Format Requirements

- 28.1. The Minimum Content and Format Requirements for this RFT are:
- (a) The Tenderer must Tender for all the Services in the Statement of Requirement. No Tenders for only part of the Services set out in the Statement of Requirement will be allowed;
 - (b) The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in the Tenderer Response Forms;
 - (c) The Tenderer must comply with AusTender lodgement requirements and procedures; and
 - (d) Measurements in the Tender must be expressed in Australian legal units of measurement.

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For Official Use Only**29. Technical Criteria**

29.1. The technical Evaluation Criteria for this RFT are:

No.	Evaluation Criteria	Weighting
1	Technical Capability	65%
2	Implementation Approach	20%
3	Capacity and Organisational Capability	7.5%
4	Continuous Improvement	7.5%

30. Non-Technical Criteria

30.1. The non-technical Evaluation Criteria (which are unweighted) are:

No.	Evaluation Criteria
5	Price
6	Risk (including financial viability and commercial risks)

30.2. The non-technical Evaluation Criteria will be considered in terms of the risk that the Response represents to the Department and will be used to determine the overall Value for Money of the Response.

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Agreement and Approval of the Plan

Agreement to the Evaluation and Probity Plan by Steering Committee and Evaluation Committee

I agree to the terms and conditions of this Plan.

Evaluation Committee

s22(1)(a)(ii)	s22(1)(a)(ii)	s22(1)(a)(ii)
(Chair and TET Member)	(Deputy Chair – TET Lead)	(TET Member)
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(signature)	(signature)	(signature)
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(date)	(date)	(date)
s22(1)(a)(ii)	s22(1)(a)(ii)	s22(1)(a)(ii)
(TET Lead)	(CET Lead)	(CET Member)
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(signature)	(signature)	(signature)
<hr/>	<hr/>	<hr/>
(date)	(date)	(date)

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For Official Use Only**Steering Committee**

Andrew Kefford (Chair)

Renelle Forster (Deputy Chair)

Steven Groves (Member)

(signature)_____
(signature)_____
(signature)_____
(date)_____
(date)_____
(date)

Pip De Veau (Member)

Ian Laverock (Member)

Radi Kovacevic (Member)

(signature)_____
(signature)_____
(signature)_____
(date)_____
(date)_____
(date)

Cheryl-anne Moy (Observer)

(signature)_____
(date)**Approval of Delegate**

I, the Delegate, approve the contents of this Plan.

Malisa Golightly (Deputy Secretary Visa and Citizenship Services Group)

s22(1)(a)(ii)

(signature)_____
(date)

19.9.17

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Attachment A

Conflict of Interest Declaration

I have been asked to disclose any interest that I may have which would preclude me from undertaking my role as a member of the Evaluation Committee (EC) or as an advisor to the EC in the procurement process being undertaken by the Department of Immigration and Border Protection (the **Department**) for the procurement of:

I understand that a conflict of interest can arise out of any relationship, either personal, financial or professional, with any potential respondent, or employee or advisor of any potential respondent, such that a potential respondent, or any employee or advisor of a potential respondent, or myself or a member of my direct family, could benefit personally in some way from the outcome of the procurement process.

To the best of my knowledge and belief I have not had, and do not have any relationship which may give rise to a conflict of interest. **[Delete if not applicable.]**

I declare below relationships which may give rise to a conflict of interest at the attachment to this declaration. **[Delete if not applicable.]**

I am aware of the Department's requirement for strict probity in the procurement process and if I subsequently discover that there is a relationship with any potential respondent which does or may constitute a conflict of interest, I will immediately report it to the EC chair.

I will also immediately report to the EC Chair any direct or indirect contact that I have with any potential respondent, or any employee or advisor of any potential respondent, which is not officially authorised, including any approach made to me in the way of a direct or implied offer of future employment or other benefit.

Dated the day of 20

Signed:

Name:

Address:

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For Official Use Only**Attachment B – Confidentiality Forms****Deed of Confidentiality**

This Deed Poll is made by:

Name: _____

Address: _____ **(Participant)**

For the benefit of the Commonwealth of Australia as represented by the Department of Immigration and Border Protection **(Department)**

- A. The Participant is performing duties associated with the Department's procurement process for _____ **(Procurement Process)**.
- B. The Participant will access Confidential Information during the Procurement Process.
- C. Confidential Information means information (however stored) that:
 - (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
 but does not include information that:
 - (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.
1. The Participant undertakes in respect of the Confidential Information:
 - (a) to keep it secret;
 - (b) to use it solely for the Procurement Process;
 - (c) to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
 - (d) not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
 - (e) not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
 - (f) to obey the directions of the Department and its representatives in dealing with the Confidential Information;
 - (g) to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
 - (h) to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

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2. The Participant acknowledges that:
- (a) the obligation to keep the Confidential Information secret continues after the end of the completion of the Procurement Process and the Participant's working with the Department;
 - (b) the Participant may additionally owe duties of confidentiality to third parties that have provided Confidential Information to the Department on a confidential basis;
 - (c) this Deed does not provide for any change in ownership of the Confidential Information;
 - (d) the Crimes Act 1914 provides that a person who performs services for or on behalf of the Commonwealth and who unlawfully discloses information may be liable to imprisonment for up to 2 years; and
 - (e) the obligations created by this Deed are in addition to any other obligation or duty which may arise under statute or otherwise, including under the Crimes Act.
3. The law applicable in the Australian Capital Territory will apply to this Deed.

Executed as a Deed.

SIGNED, SEALED AND DELIVERED

By _____)

[Name of Participant])

On: _____)

[Date]

[Signature of Participant]

In the presence of:

[Name of witness]

[Signature of witness]

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For Official Use Only**Confidentiality Acknowledgement**

Name: _____

Address: _____ (Participant)

- A. The participant is a Commonwealth public servant working for or with the Department of Immigration and Border Protection (**Department**).
- B. The Participant is performing duties associated with the Department's procurement process for _____ (**Procurement Process**).
- C. The Participant will access Confidential Information during the Procurement Process.
- D. Confidential Information means information (however stored) that:
- (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
- but does not include information that:
- (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.

The Participant acknowledges that, in respect of the Confidentiality Information, the Participant is required under the terms of their employment:

1. to keep the Confidential Information secret;
2. to use it solely for the Procurement Process;
3. to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
4. not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
5. not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
6. to comply with the directions of the Department and its representatives in dealing with the Confidential Information;
7. to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
8. to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

SIGNED:

By _____)
[Name of Participant])On: _____)
[Date])

[Signature of Participant]

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For Official Use Only**Attachment C****RFT EVALUATION TIMETABLE**

Task to be Completed	By Whom	By When
Finalise Procurement Plan	s22(1)(a)(ii)	24 May 17
Finalise Evaluation and Probity Plan		24 May 17
Finalise Procurement Documentation		31 May 17
Obtain Legal, Probity Advisor and Delegate clearance of documentation, resource arrangements		31 May 17
Conduct probity briefings		As required
Receive conflict of interest and confidentiality forms (as required) from Evaluation Team members		As required
Procurement Documentation released	Policy, Panels and Reporting Section	16 Jun 17
Set up document management arrangements such as TRIM storage location/s	s22(1)(a)(ii)	16 Jun 17
Receive Responses	Policy, Panels and Reporting Section	20 Jul 17
Register Responses and complete compliance check	Policy, Panels and Reporting Section	21 Jul 17
Provide Evaluation Committee with TRIM Location/s for Responses	s. 22(1)(a)(ii)	24 Jul 17
Assess Responses against Evaluation Criteria (including financial viability evaluation)	Evaluation Committee	24 Jul – 25 Aug 17
Provide draft Evaluation Report to Probity Advisor and Legal Advisor	Evaluation Committee, Chair	26 Aug 17
Finalise Evaluation Report	Evaluation Committee	27 Aug 17
Submit Evaluation Report to Steering Committee	Evaluation Committee, Chair	28 Aug 17
Submit Evaluation Report to Delegate	Steering Committee	1 Sep 17
Conduct negotiations for contractual arrangements	TBD	11 Sep – 14 Nov 17
Advise successful and unsuccessful supplier(s)	Evaluation Committee, Chai	17 Nov 17

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Attachment D

11 POINT EVALUATION SCALE

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11 Point Evaluation Scale

	Does the offer satisfy the evaluation criterion?	Where there are deficiencies, what level are those deficiencies?	To what level does the supporting information provide confidence of success?	Are there any shortcomings/missing information with the submission?	Score	Descriptor	Narrative
Leading	Yes	N/A	Very High	No	10	Excellent	The submission has no shortcomings in any way and the evaluator has very high confidence that all aspects of the offer will be met.
	Yes	N/A	Very High	Yes	9	Superior	The offer satisfies the evaluation criterion in all respects. The evaluator has a high level of confidence that the Service Provider will meet all aspects of the offer. The Service Provider’s claims are fully supported by the information provided. Supporting information is comprehensive and complete.
	Yes	N/A	High		8	Very Good	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are fully supported by the information provided. Supporting information is comprehensive and complete.
Preferred	Yes	N/A	Generally		7	Good (plus)	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are well supported by the information provided. Supporting information is largely comprehensive and complete.
	Largely	Minor			6	Good	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are mainly supported by the information provided. Supporting information is generally comprehensive and complete.
	Largely	Medium			5	Good (minus)	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider’s claims are largely supported by the information provided. Supporting information is generally acceptable.
Acceptable	Largely	Major			4	Acceptable (plus)	The offer largely satisfies the evaluation criterion. There are some deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
	Partially	Minor			3	Acceptable	The offer partially satisfies the evaluation criterion to an acceptable degree. There are some minor deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
Unacceptable	Partially	Major			2	Marginal	The offer has some shortcomings and does not fully satisfy the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has some reservations regarding the Service Provider’s ability to satisfy the required standard.
	Barely				1	Poor	The offer barely satisfies, or does not satisfy, the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has significant reservations regarding the Service Provider’s ability to satisfy the required standard.
	No				0	Non-compliant	The offer does not satisfy the evaluation criterion. There are major deficiencies in all aspects of the supporting information and the evaluator considers that the Service Provider has not satisfied the required standard.

For Official Use Only**Attachment E****RISK ASSESSMENT****Risk Identification**

As part of the evaluation of Responses against each Evaluation Criterion, the Evaluation Committee (EC) member will identify and document any risks associated with each Respondent achieving the claims set out in its Response. The EC will reach a consensus as to whether a risk actually exists and what the nature of that risk might be.

Following the identification of risks, an assessment of risk will be undertaken which involves considering the consequence of the risk and the likelihood of each risk occurring. These will then be combined to determine the overall risk.

All decisions will be appropriately documented for use throughout this evaluation process.

The overall risk will then be considered in the context of the rating scale included in section 22 of this Plan.

Determination of Risk Consequence

The consequence of identified risks will be classified as Severe, Major, Moderate, Minor or Insignificant depending on the nature of the identified risks. Guidance on classifying risks is given by the following table:

Consequence	Description
Severe	<ul style="list-style-type: none"> – would cause significant financial loss – threaten the Department's viability – result in extreme political / community sensitivity and media scrutiny – result in a Commission of Inquiry or Inquest – result in death or permanent disability
Major	<ul style="list-style-type: none"> – would cause major financial loss – threaten the continuation of a program or project – impact adversely on the achievement of the Department's strategic objectives – result in significant political / community sensitivity and media scrutiny – result in Ministerial intervention – require audit – result in life threatening or serious injury which is irreversible requiring medical attention and ongoing treatment
Moderate	<ul style="list-style-type: none"> – would cause moderate to high financial loss – would not threaten a program or project but could result in a significant review – result in some political / community sensitivity and media scrutiny – result in parliamentary questions – require management initiated reviews – some impact on the Department's operational objectives – result in injury or health impacts that are reversible but may require medical attention but limited ongoing treatment

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Consequence	Description
Minor	<ul style="list-style-type: none"> would cause medium to low financial loss could require action to offset the impact on some aspect of a program or project limited impact on the Department's operational objectives limited political / community sensitivity management reporting required may result in minor injury or reversible health damage which may require ongoing treatment
Insignificant	<ul style="list-style-type: none"> would have an insignificant or low financial loss any consequences can be dealt with by routine operations or management action no reputation damage any injuries can be dealt with through primary first aid

Assessment of Risk Likelihood

This assessment is based on the likelihood that the risk will occur in light of the Response provided by each Respondent. Guidance on this assessment is given in the following table:

Likelihood	Description
Almost certain	Can be expected to occur in most circumstances within the next year
Likely	Will probably occur in most circumstances within the next two to five years
Possible	May occur in most circumstances within the next five to 10 years
Unlikely	Could occur at sometime within the next 10 to 20 years
Rare	Expected to occur only in the most exceptional circumstances

Risk Matrix Table

The risk matrix table shows the relationship between the likelihood and the consequences /impact of risk to produce an overall level or risk

Likelihood	Consequences				
	Extreme	Major	Moderate	Minor	Insignificant
Almost certain	High	Significant	Significant	Moderate	Moderate
Likely	High	Significant	Moderate	Moderate	Moderate
Possible	Significant	Significant	Moderate	Moderate	Low
Unlikely	Significant	Moderate	Moderate	Low	Low
Rare	Moderate	Moderate	Low	Low	Low

High avoid undertaking the activity OR implement new controls

Risk plan must be signed off at executive level

Significant consider suspending or ending activity OR implementing additional controls

Senior Executive attention to risk plan is required

Moderate ensure that controls are in place and operating and that management responsibility for controls is agreed

Low manage by routine procedures and accountabilities

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FOI Doc #4 – Attachments C and D
have been deleted as s.22(1)(a)(ii) of the
FOI Act applies

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Australian Government

Department of Immigration and Border Protection

Received

22 NOV 2017

Minister for Immigration
and Border Protection**Submission**

For decision

PDMS Ref. Number MS17-004039

To Minister for Immigration and Border Protection

Subject ANNOUNCEMENT OF THE SERVICE CENTRE OUTSOURCING PROVIDER DECISION

Timing Please action by 24 November 2017
(this timeframe has been agreed between FAS DTCD and MO Advisor,
s22(1)(a)(ii) on 21 November 2017)

Recommendations

That you:

1. Note that, following a Request for Tender (RFT) and contract negotiations to outsource the Department's client enquiry services, the Department expects to enter into a contract with Datacom Connect by Tuesday 28 November 2017. (noted) / please discuss
2. Note that the Department intends to advise impacted staff of the outcomes of the RFT on the morning of Wednesday 29 November, followed closely by advice to the National Staff Consultative Forum (NSCF) that afternoon. (noted) / please discuss
3. Note that the Department is actively managing the redeployment of the remaining staff and expect all permanent staff to be successfully redeployed by 30 June 2018 when full transition to the Service Provider occurs. (noted) / please discuss

Minister for Immigration and Border Protection

s22(1)(a)(ii)

Signature: _____

Date: 19.12/2017

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Minister's Comments				
Rejected Yes/No	Timely Yes/No	Relevance <input type="checkbox"/> Highly relevant <input type="checkbox"/> Significantly relevant <input type="checkbox"/> Not relevant	Length <input type="checkbox"/> Too long <input type="checkbox"/> Right length <input type="checkbox"/> Too brief	Quality Poor 1.....2.....3.....4.....5 Excellent Comments:

Key Issues

1. The Department has finalised contract negotiations for the Request for Tender (RFT) to outsource the Department's client enquiry services. Contract execution is expected on 28 November 2017.
2. The successful tenderer is Datacom Connect who will provide the client enquiry services from their Adelaide premises. Datacom Connect Pty Ltd is an Australian listed company. Ultimate global ownership rests with Evander Management Limited, which is a New Zealand Limited Company.
3. The announcement of the Department's Client Enquiry Services Outsourcing RFT is planned to occur on Wednesday 29 November 2017 to coincide with the Department's NSCF. This approach will assist the Department in managing information flow, and ensuring affected staff are told first.
4. Preceding the announcement to the unions at the NSCF, Sydney Service Centre staff will be informed via face-to-face sessions delivered by First Assistant Secretary, Digital Transformation and Channels Division, Andrew Kefford and Assistant Secretary, Channel Management Branch, Renelle Forster. Staff in London and Ottawa will be advised by the management teams at those offices. This personalised approach should maintain staff engagement to the fullest extent possible, and ensure service standards are maintained for the Department's client enquiry services during the transition to the outsourced provider.

5. s47C

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7. Within the Department, executives and staff will be advised after the staff and NSCF announcements, including through an intranet message.
8. Advice to DFAT will be managed through the Department's Regional Directors at posts to DFAT's Heads of Missions; through the DFAT cable system; and through established engagement mechanisms in Canberra.
9. The impact on DIBP staffing will be a total FTE reduction of 221 staff. A staff workforce management strategy has been developed and is currently in place. The strategy includes dedicated support staff actively working with potentially affected staff, giving primacy to affected staff in the SSC for redeployment opportunities and creating new job opportunities within the Department, and consolidation of a range of departmental administrative functions in Sydney to provide further opportunities for placement of staff. In principle agreement has also been reached with the ABF to enable SSC staff to express interest in the next Border Force Officer Recruit Trainees (BFORT) program to commence in NSW in 2018 and the Department's Location of Work proposal within the Visa and Citizenship Management Division is likely to provide redeployment opportunities particularly for APS3 and APS5 staff.
10. Opportunities for voluntary relocation to other regions will also be considered on a case by case basis but taking into account any workforce adjustments currently occurring in those regions.
11. Expression of interest processes have recently been conducted within the SSC for vacancies largely at the APS 3 classification within V&CS Group. All affected staff were encouraged to apply and the merit list will be used to fill these and future similar vacancies.
12. Staff consultation and engagement has been comprehensive with over seventy communication and engagement activities implemented since the budget announcement. These include regular staff meetings; individual meetings with staff to develop tailored transition plans; provision of information sessions in respect to applying for jobs; engagement of the Department's career coaches to work with staff to discuss career plans, identify opportunities for future career paths and provide assistance with the preparation of resumes; sessions in respect to supporting staff to move through change; sessions in respect to preparing staff for retirement are planned. Additionally, staff have access to an Employee Assistance Program (EAP) counsellor on site weekly.
13. We have been in regular contact with the Community and Public Sector Union (CPSU) and staff union representatives regarding our workforce and support strategies. Activities focus on:
 - redeploying permanent staff
 - supporting all staff through coaching and development programs
 - providing mental health support through the Department's existing employee assistance scheme.

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14. The Client Enquiry Services Implementation (CESI) project (responsible for managing the outsourcing process) has been impacted by the Home Affairs changes and machinery of government (MOG) requirements that have a sizeable demand on the Department's ICT resources. The limited available ICT support and resources will impact the delivery of outsourced CESI outsourcing implementation timeline. However the Department will meet our New Policy Proposal funding commitments by transitioning Sydney, Ottawa and London based phone services by 30 June 2018 and focus on transitioning and enhancing digital based services (such as web chat and social media) through 2018-19, when MOG ICT demands have reduced.

Background

15. The Immigration Reform – Visa Service Delivery Reform Programme reflects the Department's key strategic outcomes: a strong economy, a prosperous and cohesive society and strong national security.
16. ^{s47C}
17. In the interim, the Department is implementing a small number of initiatives which act as stepping stones to the longer term reform vision and would alleviate short-to-medium term pressure on DIBP's service delivery network, while delivering tangible benefits for Government.

18. ^{s47C}

19. ^{s47C}

Consultation – internal/external

20. First Assistant Secretary, People Division.
21. In accordance with departmental guidelines for High Risk, High Value procurements, the procurement has been guided by a Steering Committee comprised of:
- FAS, Digital Transformation and Channels Division
 - FAS General Counsel, Legal Division
 - Chief Financial Officer, FAS, Finance Division
 - Chief Audit Executive, FAS, Integrity Security & Assurance Division
 - AS, Procurement and Contracts Branch
 - AS Strategy Architecture and Innovation Branch
 - AS, Channel Management Branch

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~~Sensitive~~**Consultation – Secretary/Commissioner**

22. The Secretary was not consulted on the approach in the submission.

Client service implications

23. Client service implications are detailed in the submission above.

Sensitivities

24. The outcome of the Department's service centre outsourcing RFT is not yet widely known in the Department. Care should be taken in discussing these matters to ensure that this information is only shared on a need-to-know basis, as the outcome may inflame tensions with staff and the CPSU in the current industrial relations context, if not carefully managed.

Financial/systems/legislation/deregulation implications

25. Financial, systems and other implications are listed in the submission above.

Attachments

Attachment A. ^{s47C} [REDACTED]

Authorising	s22(1)(a)(ii)
Cleared by:	[REDACTED]
Andrew Kefford	
First Assistant Secretary	
Digital Transformation & Channels Division	
Date: 22 November 2017	
Ph: s22(1)(a)(ii)	

Contact Officer ^{s22(1)(a)(ii)} A/g Assistant Secretary, Channel Management Branch

Through A/g Deputy Secretary, Visa and Citizenship Services Group ^{s22(1)(a)(ii)} *Zz/h*

CC Secretary
Commissioner

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FOI Doc #5 – Attachment A is exempt as
s.47C of the FOI Act applies



Australian Government
Department of Immigration
and Border Protection

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MINUTE

To: Deputy Secretary, Visa and Citizenship Services Group, Malisa Golightly
Through: First Assistant Secretary, Digital Transformation and Channels Division, Andrew Kefford
Date: 15 September 2017

CLIENT ENQUIRY SERVICES PROCUREMENT: KEY DATES AND DOCUMENTATION

ose

1. To provide you with background information, key dates and key documents relating to the Client Enquiry Services procurement to assist you in your upcoming consideration, as PGPA Delegate, of the Tender Evaluation Report and Contract Negotiation Directive.

Background

2. As part of the short-term measures under the Integrated Immigration Reform Programme, the Department has approached the market for the delivery of client enquiry services, including the functions currently performed by the Department's service centres in Sydney, London and Ottawa.

3. s22(1)(a)(ii)

4.

5. A hard copy of the RFT documentation was provided to your office on 6 September 2017 for your information.
6. This additional package of information is intended to further assist your understanding of the decision to approach the market and the governance arrangements which have been put in place for this procurement.
7. The Tender Evaluation Report and Contract Negotiation Directive for this procurement are currently being finalised and are expected to be with you, as PGPA Delegate, for consideration in the week commencing 18 September 2017.
8. A meeting time has been arranged with your office for Tuesday 19 September 2017 to take you through this background and documentation, as well as the findings and recommendations of the Tender Evaluation Report and the Contract Negotiation Directive.

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s22(1)(a)(ii)

s22(1)(a)(ii)

Final decision and announcement by Government

18. The proposal to outsource the service centres was considered and endorsed as part of the Department's Budget 2017/18 as one of the interim measures of the longer-term Integrated Immigration Reform Programme (on which have received a separate briefing).
19. The Minister specifically announced the Government's decision to outsource client enquiry services on 9 May 2018 (Attachment 6 – Minister's Media Release).

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For Official Use Only*Staff and union consultations*

20. At the time of the Budget announcement, Sydney Service Centre staff were addressed in-person by the previous Assistant Secretary, Channel Management Branch, and the offshore service centre staff were briefed by local managers.
21. The current Assistant Secretary, Channel Management Branch has since spoken to all Sydney Service Centre staff on 12 July 2017, and staff at the two offshore service centres and are being kept apprised of developments by local managers. Rolling FAQs are available to all SSC staff, and FAQs are being provided to the managers of the offshore service centres to share with their staff.
22. FAS People Division verbally notified the Community and Public Sector Union (CPSU) of the decision to outsource the service centres on 9 May 2017, to coincide with the Budget announcement.
23. The National Staff Consultative Forum (NSCF) Service Centre Sub-Committee was provided with information regarding the first-stage REOI process on 9 March 2017, and were provided with an update on the RFT process on 18 July 2017 (Attachment 7 – Minutes of the NSCF Service Centre Sub-Committee meetings of 9 March 2017 and 18 July 2017).
24. The full NCSF was provided with an update on the procurement process on 26 July 2017.
25. A summary of staff and union consultations is attached (Attachment 8 – Summary of staff and union consultations).

G *Finance*

26. Approval to release the RFT on AusTender to the down-selected tenderers was received on 7 June 2017 (Attachment 9 – Approvals required for the RFT).
27. The Evaluation and Probity Plan was approved on 19 July 2017, prior to evaluation commencing (Attachment 10 – Evaluation and Probity Plan). Minor changes to the Plan were approved on 21 July 2017 (Attachment 11 – email approval for amendments to the Evaluation and Probity Plan).
28. The Procurement Plan was endorsed verbally on 28 June 2017. A File Note and supporting documentation reflecting this approval has been retained on file (Attachment 12 – Procurement Plan approval).
29. On 28 July 2017, it was determined that the Client Enquiry Services procurement was a High Risk, High Value procurement (Attachment 13 – Email advice of HRHV procurement status). As such the RFT Steering Committee's Membership and Terms of Reference were established in accordance with Departmental guidelines for procurements identified as being High Risk, High Value (HRHV) (Attachment 14 – Steering Committee Terms of Reference).
30. Up until this point, the Delegate for the procurement was Acting FAS, Digital Transformation and Channels Division, however it was agreed at the first Steering Committee meeting of 28 July 2017 that, in light of HRHV status, it was appropriate to shift delegation to the position of Deputy Secretary, Visa and Citizenship Services Group (VCSG). Then Acting Deputy Secretary VCSG was briefed and agreed to this change verbally.
31. The Steering Committee has met on four occasions to discuss the procurement and provide guidance to issues raised by the RFT Evaluation Committee (Attachment 15 – Steering Committee Minutes).

Future milestones

32. The Tender Evaluation Report and Contract Negotiation Directive for this procurement are currently being finalised and are expected to be with you for consideration in the week commencing 18 September 2017.
33. A meeting time has been arranged with your office for Tuesday 19 September 2017 to take you through this background and documentation, as well as the findings and recommendations of the Tender Evaluation Report and the Contract Negotiation Directive.
34. A summary of further key dates and milestones is as follows:

• RFT Evaluation Report approved by Deputy Secretary	Friday 22 September
• Contract Negotiation Directive approved by Deputy Secretary	Friday 22 September
• Notify preferred service supplier	Monday 25 September
• Commence contract negotiations	Tuesday 3 October

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- Conclude contract negotiations

Tuesday 31 October

- Contract execution with service supplier

Monday 6 November

35. Further key dates and milestones are attached (Attachment 16 – future key dates and milestones).

Recommendation

It is recommended that you:

- **note** the contents of this brief

s22(1)(a)(ii)

Noted / Please Discuss

Renelle Forster
Assistant Secretary
Channel Management Branch
s22(1)(a)(ii)

Malisa Golightly
Deputy Secretary
Visa and Citizenship Services Group

15 September 2017

September 2017

Attachment(s):

Attachment 1 – s22(1)(a)(ii)

Attachment 2 –

Attachment 3 – s.34(3)

Attachment 4 – s22(1)(a)(ii)

Attachment 5 –

Attachment 6 – Minister's Media Release

Attachment 7 – Minutes of the NSCF Service Centre Sub-Committee

Attachment 8 – Summary of staff and union consultations

Attachment 9 – Approvals required for the RFT

Attachment 10 – Evaluation and Probity Plan

Attachment 11 – Email approval for amendments to the Evaluation and Probity Plan

Attachment 12 – Procurement Plan approval

Attachment 13 – Email advice of HRHV procurement status

Attachment 14 – Steering Committee Terms of Reference

Attachment 15 – Steering Committee Minutes

Attachment 16 – future key dates and milestones

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FOI Doc #6 – Attachment 3 is not included as the entire document is exempt under s.34 of the FOI Act

FOI Doc #6 – Attachments 4 and 5
have been deleted as s.22(1)(a)(ii) of the
FOI Act applies

The Hon Peter Dutton MP

Minister for Immigration and Border Protection

Menu ☰

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Tuesday, 09 May 2017

2017 Budget – Immigration and Border Protection

The Turnbull Government has committed \$95.4 million in the 2017-18 Budget to support new technologies for the Department of Immigration and Border Protection (DIBP) to bolster the prosperity of the nation and to protect Australia into the future.

In a world of mass mobility, Australia needs to modernise its visa processes to facilitate economic growth and strengthen intelligence measures at the border to counter security threats.

This work has begun with the abolition of the 457 visa programme and strengthening the requirements to attain Australian citizenship.

This Budget provides \$59.9 million over four years to enhance biometric storage and processing capabilities to contribute to a safer border and a safer Australia.

Australia is committed to being a world leader in innovative border measures to protect our community and facilitate trade and travel.

This funding will enable high volume biometric matching, storing, analysis and data sharing of facial image and fingerprint biometrics through the introduction of new technology.

The improved capability will allow more efficient detection of individuals of a security, law enforcement or immigration interest while simultaneously speeding up the flow of legitimate travellers.

This builds on the \$99.2 million allocated in last year's Budget for a Visa Risk Assessment capability to enable risks to be considered at visa application before an individual reaches Australia.

Implementation of the upgraded biometric capabilities will commence from 1 July 2017.

Increased use of automation and technology is vital to facilitate rising numbers of travellers. Each week the Australian Border Force (ABF) processes more than 700,000 people arriving in or departing from Australia and this number is expected to increase by about 20 per cent over the next few years.

To deal with the increasing number of movements the Government will initiate a long-term programme of work to enhance the visa system.

The Government will provide \$35.4 million over the forward estimates for DIBP to engage with the market to explore new technologies to help design and build a visa processing platform that will better manage risk, increase efficiency in processing and improve the visa applicant experience. As an interim step, the market will also be used to outsource client enquiry services, bringing onshore work that is currently delivered overseas.

The 2017-18 Budget also brings into effect the Coalition's election commitment to introduce a new temporary sponsored parent visa, which provides for a stay of up to five years in Australia.

Australia's permanent migration programme for 2017-18 will remain at a ceiling of 190,000 places.

Regional Cooperation Arrangements to combat people smuggling and irregular migration will be allocated \$52.6 million for the International Organization for Migration's work in Indonesia.

In line with the Coalition's commitment to increase the number of refugees resettled under the Humanitarian Programme in 2017-18 there will be 16,250 places in the programme, 2500 more than this year's intake.

Included in the increase to the Humanitarian Programme this Budget sees the implementation of Australia's commitment made at the Leaders' Summit on Refugees in New York last September to expand the Community Support Programme for sponsored refugee resettlement to 1000 places.

See: [Index of Media Releases](#)

URL:

<http://www.minister.border.gov.au/peterdutton/2017/Pages/budget-2017-18.aspx>

Last update: Tuesday, 09 May 2017

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Meeting Outcomes and Actions Arising National Staff Consultative Forum Service Centre Sub Committee

Video Conference

Thursday, 18 July 2017

9.00am -10.30am

Attendees

NAME	ROLE
Renelle Forster	Chair NSCF SC Sub Committee Assistant Secretary Channel Management Branch (AS CMB)
s22(1)(a)(ii)	Director, Service Centre Support Section
s22(1)(a)(ii)	Service Centre Staff Representative
Lesley Dalton	Regional Director NSW/ACT
s22(1)(a)(ii)	CPSU Workplace Delegate
s22(1)(a)(ii)	CPSU Field Organiser
s22(1)(a)(ii)	CPSU DIBP National Organiser
s22(1)(a)(ii)	Manager, Telephony Interpreter Service (TIS)
s22(1)(a)(ii)	Manager, Sydney Service Centre
s22(1)(a)(ii)	Director, People and Support NSW
s22(1)(a)(ii)	Director, Sydney Service Centre
s22(1)(a)(ii)	Victoria Staff Representative
s22(1)(a)(ii)	NSCF SC Sub Committee Secretariat

Apologies: s22(1)(a)(ii) (NSW NSCF Staff Representative),
s22(1)(a)(ii) (Director, People and Support VIC/TAS),
s22(1)(a)(ii) (Director, TIS National & GFU)



Meeting Outcomes and Actions Arising

s22(1)(a)(ii)

s22(1)(a)(ii)

Continuous improvement and approach to market update	Discussion Points	<p>Update regarding known timeframes for RFT process:</p> <ul style="list-style-type: none"> • Announcement of service provider will not be until contract is signed. At this stage we anticipate this would be by end December 17. • Process is complex and is in line with Dept. Finance policy and procedures • Process includes evaluation, contract negotiation, reconciliation, multiple signoffs and approvals • Anticipated timeline for full outsourcing is 12-18 months from budget announcement in May. <p>Director Service Centre Support emphasised commitment to sharing information as soon as possible in line with probity requirements.</p>
	No Action arising	



Australian Government
**Department of Immigration
and Border Protection**

<u>Other Business</u> CPSU raised question regarding the plans to redeploy APS3 workforce	Discussion Points	<ul style="list-style-type: none">• Director, People and Support NSW outlined activities already undertaken and planned to support staff.• Reinforced project commitment to processes outlined in the Enterprise Agreement in supporting permanent staff prior to and through any redeployment process. Identified that all options are being explored including conversations with ABF regarding possible opportunities.
<u>For Noting</u> Chair of the NSCF SC Sub-committee acknowledged issues raised by members and thanked all for their candid, open conversation in relation to staffing and transition concerns		<p>Chair reinforced commitment to provision of information to staff and sub-committee as soon as permissible.</p> <p>Reminded members that service centre outsourcing was a government budget decision.</p> <p>Highlighted the current constraint the organisation had in providing detailed information due to:</p> <ul style="list-style-type: none">• Outcome of RFT unknown• The detailed solution offered by market unknown• Constraints regarding RFT probity

s22(1)(a)(ii)

Client Enquiry Services Project - Communications and Engagement Overview

Stakeholder category	Audience	Communication Event	Description	Comments/Questions	Timing
Communication and engagement activities limited by cabinet in sensitive information until May (budget announcement). Organisational change management resources allocated to project to monitor engagement from July 17.					
Nov 2016					
Unions	NSCF membership	DIBP NSCF meeting	Decision at the NSCF to reinstate the NSCF Sydney Service Centre (SCC) Subcommittee	<ul style="list-style-type: none"> Stand up NSCF SCC subcommittee in first quarter 2017 	Early Nov
March 2017					
Unions	NSCF SC Sub-committee membership: NSCF staff CPSU People and Support NSW SSC Service Centre Support TIS	First NSCF SC Subcommittee after reinstating	Focus on committee governance, terms of reference and membership <ul style="list-style-type: none"> Information provided regarding REOI and expected RFT timeline provided 	<ul style="list-style-type: none"> Questions asked regarding the RFT selection 	9 March 17
April 2017					
Executive	DTCD Stakeholders Border Management Stakeholders Refugee & Humanitarian Programme Visa & Citz Capability Support Stakeholders Status Resolution Stakeholders ICT Division Stakeholders	Stakeholder Meeting	<ul style="list-style-type: none"> To provide an overview, seek feedback and obtain concurrence of the Client Enquiry Services Future Operating Models' proposed Business Requirements. 		5 April 17
Executive	DTCD Stakeholders Border Management Stakeholders Refugee & Humanitarian Programme Visa & Citz Capability Support Stakeholders Status Resolution Stakeholders ICT Division Stakeholders	Stakeholder Meeting	<ul style="list-style-type: none"> To provide an overview, seek feedback and concurrence of the proposed Technical Interaction Model for the Future Client Enquiry Services. 		10 April 17
May 2017					
Unions	CPSU and NSCF	Direct email to Unions with NSCF cc'd	<ul style="list-style-type: none"> Message from the Secretary and Commissioner: 2017-18 Budget forwarded to unions 10 May 17 	Attached for reference	
Unions	CPSU and NSCF	Direct email to Unions with NSCF cc'd	<ul style="list-style-type: none"> FAS People Division, Murali VENUGOPAL email to Unions to advise Budget Announcement and outsourcing of contact centres on 10 May 17 		
Service Centre Staff	SSC Staff ASC Staff ESC Staff Staff in the STOs, NatO	Distribution and briefing regarding Managers Toolkit	<ul style="list-style-type: none"> Managers toolkit containing talking points and FAQs <ul style="list-style-type: none"> To provide regional, SSC, ASC and ESC Managers with information about changes to client enquiry services as a consequence of the recent budget announcements. 		9 May 17
Service Centre Staff	SSC Staff ASC Staff ESC Staff	Face-to-Face staff Briefings	<ul style="list-style-type: none"> To inform staff about the changes to client enquiry services as a consequence of the recent budget announcements. 	<ul style="list-style-type: none"> SCC staff felt that managers knew outsourcing was coming beforehand (before budget announcement) Staff weren't happy with way they were told as found out in general DIBP email before told by SCC managers/leadership 	10 May 17
Service Centre Staff	SSC Staff ASC Staff ESC Staff	Production and distribution of SC FAQs via Tem leaders	<ul style="list-style-type: none"> Rolling FAQs (received from SSC staff to the SC Staff Information Mailbox) for Team Leads to discuss for SC staff. 		11 May 17

External	Media Public	Media enquiry	<ul style="list-style-type: none"> TPs on the Procurement of Client Enquiry Services and outsourcing Sydney, Americas and Europe Service Centres. 		17 May 17
Service Centre Staff	SSC Staff ASC Staff ESC Staff	Update and distribution of new SC FAQs	<ul style="list-style-type: none"> FAQs (received from SSC staff to the SC Staff Information Mailbox) for Team Leads to discuss for SC staff. 	Questions: <ul style="list-style-type: none"> did you know about outsourcing before budget 	18 & 25 May 17
June 2017					
Service Centre Staff	SSC Staff & Leaders	Face to face fortnightly/weekly team meetings	<ul style="list-style-type: none"> Update and reassurance regarding any RFT news or responding directly to any new FAQs Discussion regarding any new service management initiatives or news 		fortnightly
Service Centre Staff	SSC Staff ASC Staff ESC Staff	AS CMB email to staff	<ul style="list-style-type: none"> To update staff on the release of the RFT for CES on Friday 9 June 17 		7 June 17
Service Centre Staff	SSC Staff ASC Staff ESC Staff	Rolling FAQs updated and distribute to team leaders	<ul style="list-style-type: none"> Rolling FAQs (received from SSC staff to the SC Staff Information Mailbox) for Team Leads to discuss for SC staff. 	Questions: <ul style="list-style-type: none"> Who did the RFT go to (explained unable to answer due to probity) 	8 June 17
General Staff	DIBP staff	Email to all staff regarding RFT process	<ul style="list-style-type: none"> Probity Notice for Request for Tender DIBP 11/16 advising staff probity principals during procurement. 		9 June 17
Unions	CPSU and NSCF	Email to Unions to advise release of RFT	<ul style="list-style-type: none"> Advise CPSU and NSCF of release of the RFT for CES on Friday 9 June 17 		9 June 17
Service Centre Staff	SSC Staff ASC Staff ESC Staff	Rolling FAQs updated and distribute to team leaders	<ul style="list-style-type: none"> Rolling FAQs (received from SSC staff to the SC Staff Information Mailbox) for Team Leads to discuss for SC staff. 	Questions: <ul style="list-style-type: none"> will the service provider be based overseas will we lose our job 	13 June 17
July 2017					
Service Centre Staff	SSC Staff & Leaders	Face to face fortnightly/weekly team meetings	<ul style="list-style-type: none"> Update and reassurance regarding any RFT news or responding directly to any new FAQs Discussion regarding any new service management initiatives or news 		fortnightly
Executive	NatO DIBP Managers	Daily Issues brief to pre-empt response to Union activity	<ul style="list-style-type: none"> Talking points and update to executive to respond to staff questions regarding CPSU Point of Entry Activity 5 July regarding a petition opposing the outsourcing of the Sydney, London and Ottawa Service Centres 		4 July 17
Service Centre Staff	SSC staff	AS CMB Face to face staff Briefings	<ul style="list-style-type: none"> AS CMB briefing sessions on CES RFT process, milestones and timeframes 	Questions raised included focus on job security and timings	12 July 17
Unions	NSCF staff CPSU People and Support NSW SSC Service Centre Support TIS	NSCF Service Centre Sub-Committee meeting	<ul style="list-style-type: none"> To provide an update on recent Service Centre activities and CES Established standing agenda item on RFT CS Outsourcing 	Unions asked <ul style="list-style-type: none"> For visibility of timings if there would be any redundancies 	18 July 17
Executive	SES	Strategic Coord Reporting	<ul style="list-style-type: none"> CES RFT update for STRATEGIC COORDINATION - Week commencing 17 July 17 		18 July 17
Executive	SES	Daily Issues Brief – 18/7/17	<ul style="list-style-type: none"> CES update for Daily Issues Brief 		18 July 17
Executive	SES	Daily Issues Brief – 19/7/17	<ul style="list-style-type: none"> CES RFT update for Daily Issues Brief 		19 July 17
Unions	NSCF	NSCF Committee Meeting	<ul style="list-style-type: none"> To provide an update on recent Service Centre activities and CES 		25-26 July 17
Executive	A/g FAS Digital Transformation and Channels Division	CES RFT Evaluation Steering Committee	<ul style="list-style-type: none"> Weekly meeting to provide oversight of the RFT evaluation period including 		27 July 17

	AS, Channel Management Branch FAS Integrity Security & Assurance AS, Strategy Architecture & Innovation AS, Procurement Contracts Acting FAS, Legal FAS, Finance		<ul style="list-style-type: none"> providing guidance to the Evaluation Committee throughout the RFT evaluation period reviewing the draft Evaluation Report providing Responses to the Evaluation Committee (EC) when necessary, including providing its comments and amendments regarding the draft Evaluation Report approving a recommendation for the Delegate's consideration 		
Service Centre Staff	ASC and ESC A-based and LES staff	Teleconference	<ul style="list-style-type: none"> Update A-Based staff on the CES RFT tender process for dissemination LES 		end July 17
August 2017					
Service Centre Staff	SSC Staff & Leaders	Face to face fortnightly/weekly team meetings	<ul style="list-style-type: none"> Update and reassurance regarding any RFT news or responding directly to any new FAQs Discussion regarding any new service management initiatives or news 		fortnightly
Executive	A/g FAS Digital Transformation and Channels Division AS, Channel Management Branch FAS Integrity Security & Assurance AS, Strategy Architecture & Innovation AS, Procurement Contracts Acting FAS, Legal FAS, Finance	CES RFT Evaluation Steering Committee	<ul style="list-style-type: none"> Weekly meeting to provide oversight of the RFT evaluation period including <ul style="list-style-type: none"> providing guidance to the Evaluation Committee throughout the RFT evaluation period reviewing the draft Evaluation Report providing Responses to the Evaluation Committee (EC) when necessary, including providing its comments and amendments regarding the draft Evaluation Report approving a recommendation for the Delegate's consideration 		2 August 17
Executive	A/g FAS Digital Transformation and Channels Division AS, Channel Management Branch FAS Integrity Security & Assurance AS, Strategy Architecture & Innovation AS, Procurement Contracts Acting FAS, Legal FAS, Finance	CES RFT Evaluation Steering Committee	<ul style="list-style-type: none"> Weekly meeting to provide oversight of the RFT evaluation period including <ul style="list-style-type: none"> providing guidance to the Evaluation Committee throughout the RFT evaluation period reviewing the draft Evaluation Report providing Responses to the Evaluation Committee (EC) when necessary, including providing its comments and amendments regarding the draft Evaluation Report approving a recommendation for the Delegate's consideration 		9 August 17
Executive	A/g FAS Digital Transformation and Channels Division AS, Channel Management Branch FAS Integrity Security & Assurance AS, Strategy Architecture & Innovation AS, Procurement Contracts Acting FAS, Legal FAS, Finance	CES RFT Evaluation Steering Committee	<ul style="list-style-type: none"> Weekly meeting to provide oversight of the RFT evaluation period including <ul style="list-style-type: none"> providing guidance to the Evaluation Committee throughout the RFT evaluation period reviewing the draft Evaluation Report providing Responses to the Evaluation Committee (EC) when necessary, including providing its comments and amendments regarding the draft Evaluation Report approving a recommendation for the Delegate's consideration 		11 August 17
Executive	A/g FAS Digital Transformation and Channels Division AS, Channel Management Branch FAS Integrity Security & Assurance AS, Strategy Architecture & Innovation AS, Procurement Contracts Acting FAS, Legal FAS, Finance	CES RFT Evaluation Steering Committee	<ul style="list-style-type: none"> Weekly meeting to provide oversight of the RFT evaluation period including <ul style="list-style-type: none"> providing guidance to the Evaluation Committee throughout the RFT evaluation period reviewing the draft Evaluation Report providing Responses to the Evaluation Committee (EC) when necessary, including providing its comments and amendments regarding the draft Evaluation Report approving a recommendation for the Delegate's consideration 		23 August 17
Service Centre Staff	SSC	SSC Bulletin	<ul style="list-style-type: none"> SSC RFT Directors update on the RFT Evaluation and Report phase 		end August 17
Service Centre Staff	ASC ESC	As email to Ottawa and London ASC & ESC executive	<ul style="list-style-type: none"> Update on the RFT Evaluation and Report phase 		31 August 17

Visa and Citizenship Services Group Coversheet

SUBJECT

Approvals required for the client buying services RFT

ACTION REQUIRED

☐ FYI ☒ Signature ☐ Clearance ☐ Advice ☐ Other:

DUE DATE

7/6/2017

CONTACT OFFICER

s22(1)(a)(ii)

PHONE

s22(1)(a)(ii)

DIVISION

- ☐ Visa and Citizenship Management
☐ Refugee and Humanitarian Visa Management
☐ Community Protection
☒ Digital Transformation and Channels
☐ Visa Reform Task Force

DOCUMENT TYPE

- ☒ Minute
☐ Submission
☐ Briefing
☐ Other:

OUTLINE

Please provide an outline of content, any relevant background, risks, consultation, next steps required, timing/deadlines/urgency and other considerations

Advise of key dates + activities associated with CES RFT. Approval of RFT, membership + responsibilities for RFT Evaluation + steering committees + Team, procurement plan + eval + privacy plan.

RECEIVED BY FAS EA

Q.A. BY

COMMENTS

s22(1)(a)(ii)

/Ravelle, As discussed, please clarify whether this is classified as a 'high risk high value procurement' and adjust the Steering Committee as appropriate.

s22(1)(a)(ii)

CLEARANCE

Assistant Secretary

PRINT NAME

~~Louise Smith~~ N/A

EA SIGNATURE*

DATE

First Assistant Secretary

A/g Tara Cavanagh

s22(1)(a)(ii)

Deputy Secretary

A/g Kaylene Zakharoff

* Please ensure SES signature is on the attached document

>> Please keep this coversheet to one page <<



Australian Government
Department of Immigration
and Border Protection

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MINUTE

To: Acting FAS Digital Transformation and Channels Division

Date: 6 June 2017

KEY INFORMATION AND APPROVALS REQUIRED FOR THE CLIENT ENQUIRY SERVICES REQUEST FOR TENDER

Timing

Approval of this Minute is required by 10.00am on 7 June 2017 to support an approach to market by 9 June 2017.

Purpose

To:

1. Advise you of the key dates and activities associated with the Client Enquiry Services Request for Tender (RFT) for release to market and evaluation
2. Seek your approval for the RFT to be released to market (**Attachment A**)
3. Seek your approval of the proposed membership and responsibilities of the RFT Evaluation Team
4. Seek your approval of the proposed membership and responsibilities of the RFT Steering Committee
5. Seek your approval of the Procurement Plan (**Attachment B**)
6. Seek your approval of the Evaluation and Probity Plan (**Attachment C**).

Issues

Key Dates and Activities

7. The following dates identify the sequence of required activities leading up to Service Provider contract signature:

Date	Activity
Tuesday 6 June	Email letter to down-selected Respondents regarding RFT release, Deed of Non-Disclosure, Industry Day registration.
Wednesday 7 June	Message from AS CMB regarding imminent release of RFT
Wednesday 7 June	RFT sent to Procurement, Panels and Reporting - Assurance Review
Thursday 8 June	AS CSMB - Branch Probity Email and Advising of Industry Briefing

Date	Activity
Thursday 8 June	RFT uploaded to AusTender by Procurement, Panels and Reporting Team for release to market (12:01 am)
Friday 9 June	RFT released to market (12:01 am)
Friday 9 June	CPSU advised of RFT release to market (email from AS CSMB)
Thursday 15 June	Industry Briefing
Monday 17 July	RFT Respondents Closure (2.00pm)
Wednesday 19 July	RFT Evaluation Commences
Thursday 24 August	RFT Evaluation Report approved by RFT Steering Committee
Monday 28 August	Obtain Deputy Secretary agreement and Delegate approval
Tuesday 29 August	Notify preferred RFT Respondent (Service Provider)
Wednesday 30 August	Notify non - preferred RFT Respondents
Tuesday 5 September	Commence contract negotiations
Friday 10 November	Contract signed

Final Version of the RFT

8. The RFT is planned to be released to market via AusTender on Friday 9 June (at 12:01am).
9. A final version of the RFT is at **Attachment A**.

Proposed RFT Evaluation Team Responsibilities and Membership

10. The RFT Evaluation Team will be responsible for evaluating the submitted RFT responses, including:
 - a. perform a detailed examination and evaluation of the submitted Responses against the Evaluation Criteria
 - b. evaluate and make recommendations on any alternative proposals or options which are part of a Response
 - c. ensure that quality assurance and probity is maintained
 - d. prepare an Evaluation Report for the consideration of the RFT Steering Committee.
11. The Evaluation Team is responsible for ensuring that the RFT process is open and transparent and that all actions by the Department are documented, defensible and substantiated in accordance with legislation and policy.
12. The proposed RFT Evaluation Team and its responsibilities are as follows:

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Chair	All roles of Member, plus: <ul style="list-style-type: none"> • Management of Evaluation Team in accordance with Probity and Evaluation Plan • Responsible for ensuring the development of the RFT Evaluation Report • All communications with Steering Committee. 	s22(1)(a)(ii) - Director, Service Centre Support

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Deputy Chair	All roles of a member, plus: <ul style="list-style-type: none"> Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required. 	s22(1)(a)(ii) - Manager, Sydney Service Centre
Member	Individually scoring and assessing risk of all responses against all criteria, while committee members bring different focus areas, each member reviews each response entirely to allow responses to be assessed in their totality. Collectively developing Short Lists.	s22(1)(a)(ii) - Sydney Service Centre Team Leader s22(1)(a)(ii) - Solution Architecture <u>TBA</u> (Two resources to evaluate financial aspects of responses – currently being sourced)
Specialist Advisors to be called upon when required by the Evaluation Team		
RFT Process Support	Support and advice on the RFT process as required by the Evaluation Team.	s22(1)(a)(ii) - Sourcing and Vendor Management
Legal and Probity	Support and advice on legal issues raised by any responses, and the probity of the evaluation process.	McGrathNicol – Corporate and Business Advisory Firm
Contract Management	Support and advice on potential contractual arrangements as required by the Evaluation Team.	s22(1)(a)(ii) – Director SDP Services Team
Systems Support	Support and advice on service centres' systems as required by the Evaluation Team.	s22(1)(a)(ii) - Director Digital Client Enquiry Support
Architecture	Support and advice on the technology and architectural risks of any response as required by the Evaluation Team.	s22(1)(a)(ii) - Director Technology Architecture, Strategy Architecture and Innovation Branch (to be confirmed)
Business Requirements	Support and advice on Departmental business requirements as required by the Evaluation Team	s22(1)(a)(ii) – Senior Business Analyst, Service Centre Support s22(1)(a)(ii) – Assistant Director, Service Centre Support s22(1)(a)(ii) CMO Ottawa s22(1)(a)(ii) CMO London

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Dependent Projects	Support and advice on dependent projects as required by the Evaluation Team	s22(1)(a)(ii) , Director, Web Services and Correspondence s22(1)(a)(ii) Director, Client Service Transformation s22(1)(a)(ii) , Director, Visa & Citizenship Helpdesks s22(1)(a)(ii) , Superintendent, National Border Programme
Financial Capacity & Quality	Provide advice on the financial viability of selected respondents	KPMG
RFT Evaluation Team and RFT Steering Committee Administrative Support		
Administrative Support	Administrative support including logistically arrangements, record management, coordination of questions back to Respondents, filing of Confidentiality and Probity Declarations.	s22(1)(a)(ii) s22(1)(a)(ii) – All of Service Centre Support Section

Proposed RFT Steering Committee Responsibilities and Membership

13. The RFT Steering Committee will provide oversight of the RFT process, including:
- reviewing the draft Evaluation Report
 - providing responses to the Evaluation Team when necessary, including providing its comments and amendments regarding the draft Evaluation Report
 - making a recommendation to the Delegate regarding proposed next steps to be taken in the procurement process.
14. The proposed RFT Steering Committee membership and responsibilities are as follows:

Role	Role Requirements	Proposed Resource/Membership
Chair	Ensure the RFT process is defensible. Identify, arrange and monitor resources to facilitate the Evaluation Process. Provide regular progress reports to the Delegate and summary reports as required. Ensure conflict of interest and probity issues are identified and addressed.	Tara Cavanagh – A/g First Assistant Secretary, Digital Transformation and Channels Division
Deputy Chair	Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required.	Renelle Forster - Assistant Secretary, Channel Management Branch

Is this a high risk / high value procurement?

Members	<p>Review the draft Evaluation Report and provide responses to the Evaluation Team when necessary providing comments and amendments regarding the draft Evaluation Report.</p> <p>s22(1)(a)(ii)</p> <p><i>Discuss with - need to get meetings into calendar now</i></p>	<p>s22(1)(a)(ii) - A/g Assistant Secretary, Visa Reform</p> <p>Anne Leo - AS, Workforce Management</p> <p>Duane Stokes - AS, Procurement & Panel Management</p> <p>OR</p> <p>Ian Laverock - AS, Procurement & Contracts</p> <p>s22(1)(a)(ii) - a/g AS, Strategy Architecture & Innovation</p> <p>Judith O'Neill - AS, Temporary Visa Programme</p> <p>Jim Williams - AC, Border Management</p> <p>Steven Groves - Chief Finance Officer</p> <p>Lisa-Ann Howgego - AS, Audit & Assurance</p> <p>Alicia Wright - AS, Commercial & Employment Law</p>
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Final Version of the Procurement Plan and Evaluation and Probity Plan

15. A final version of the Procurement Plan, is at **Attachment B**.
16. The Evaluation and Probity Plan is at **Attachment C**. The Plan will require the signatures of RFT Evaluation Team and RFT Steering Committee members before (Wednesday 19 July).

Consultation

17. The Secretary and Commissioner have been briefed on this approach.
18. Relevant staff within your work areas have been consulted as needed.
19. Close consultation has taken place with the Visa Reform Taskforce to ensure alignment with the Visa Reform Programme and consistency in benefits modelling.

20. Consultation with Major Capability Division (MCD) included engagement with the Sourcing and Vendor Management Branch to ascertain the correct market approach. Consultation has also been undertaken with MCD's Strategic Architecture and Innovations Branch to obtain an architectural and security review of the RFT.
21. A detailed Stakeholder Engagement and Communication Plan has been developed, which clearly articulates the approach to engage key stakeholder groups such as the Sydney Service Centre (SSC), overseas Service Centres and the CPSU and has been developed in consultation with People Division, who advised that the plan is consistent with Enterprise Agreement requirements for staff and representative consultation. As far as we know there are no staff in the SSC, who attract the ACBPS enterprise agreement conditions.
22. SSC, Americas Service Centre and Europe Service Centre' staff consultation has been occurring since October 2016.
23. The Department of Foreign Affairs and Trade (DFAT) has been advised.

Recommendation

It is recommended that you:

- **note** key dates and activities for the RFT process.

Noted / Please Discuss

- **approve** the final version of the RFT to be placed on AusTender (Attachment A).

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Evaluation Team.

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Steering Committee.

Approved / Not Approved / Please Discuss

- **approve** the approve the final version of the Procurement Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

- **approve** the final version of the Evaluation and Probity Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

s22(1)(a)(ii)

Director Service Centre Support Section

June 2017

s22(1)(a)(ii)

Tara Cavanagh

A/g FAS Digital Transformation and Channels

7 June 2017

Contact Officer: s22(1)(a)(ii) Director Service Centre Support Section
Phone: s22(1)(a)(ii)

Attachments

- Client Enquiry Services RFT
- Procurement Plan for Client Enquiry Services
- Evaluation and Probity Plan for Client Enquiry Services

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EVALUATION AND PROBITY PLAN

Request for Tender (DIBP RFT 11/16)

Client Enquiry Services

THIS DOCUMENT IS TO BE TREATED AS FOR-OFFICIAL-USE-ONLY AND NOT FOR RELEASE TO ANY PERSONS OTHER THAN THOSE DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION STAFF INVOLVED IN THIS PROCESS.

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For Official Use Only**INTRODUCTION**

This Evaluation and Probity Plan relates to the following process:

Number: DIBP RFT 11/16

Requirement: The Department is seeking Responses from potential suppliers shortlisted following an open approach to market Request for Expressions of Interest procurement process for the provision of innovative solutions to enhance the Department's Client Enquiry Services (the Services).

This Evaluation and Probity Plan sets out:

- PART A: The team that will be responsible for evaluating Responses to the Request for Tender (RFT), and their roles and responsibilities.
- PART B: The processes that will be used to ensure probity is maintained throughout the RFT process.
- PART C: The processes that will be used to evaluate Responses to the RFT process.
- PART D: The criteria that will be used to evaluate Responses to the RFT process.

1. Definitions

1.1. In this Evaluation and Probity Plan:

- (a) **Evaluation Committee** or **EC** means the committee set out in Part A of this Plan, who will evaluate the Responses.
- (b) **Evaluation Criteria** means the criteria, set out in Part D of this Plan and incorporated into the RFT Documentation, against which Responses will be evaluated.
- (c) **Evaluation Process** means the processes set out this Plan, which will be followed by the Evaluation Team to evaluate Responses.
- (d) **Evaluation Report** means the report to be provided from the Evaluation Committee to the Delegate, making recommendations about the RFT.
- (e) **Evaluation Team** means the team responsible for the evaluation of Responses, and consists of the Evaluation Committee, the Steering Committee, RFT support and specialist advisors.
- (f) **RFT** means the process by which the Department will seek supply of the Requirement identified above.

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- (g) **RFT Documentation** means the document seeking Responses to the RFT, and any associated document, which is published by DIBP in connection with the RFT.
- (h) **Respondent** means a tenderer that has submitted a Response to this RFT.
- (i) **Responses** means responses to the RFT submitted by tenderers.
- (j) **Steering Committee** or **SC** means the committee set out in Part A of this Plan, who will initially consider the draft Evaluation Report.

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For Official Use Only**PART A - EVALUATION TEAM****2. Evaluation Team**

2.1. The evaluation of all Responses will be the responsibility of the Evaluation Team. The Evaluation Team consists of:

- (a) an Evaluation Committee (EC);
- (b) a Steering Committee (SC);
- (c) specialist advisors to the EC; and
- (d) RFT support.

2.2. The EC consists of a Chair, a Technical Evaluation Team (TET) and a Commercial Evaluation Team (CET). The lead of the TET will be the Deputy EC Chair. EC members are:

- (a) s. 22(1)(a)(ii) Director, Service Centre Support – (Chair and TET Member);
- (b) s. 22(1)(a)(ii) Manager Sydney Service Centre – (Lead – TET, Deputy Chair);
- (c) s. 22(1)(a)(ii) Solution Architect, Channel Management Branch – (TET Member);
- (d) s. 22(1)(a)(ii) Business Analyst, Service Centre Support - (TET Member);
- (e) s. 22(1)(a)(ii) Finance Manager, Policy Group Finance – (Lead CET); and
- (f) s. 22(1)(a)(ii) Visa Reform Implementation Project – (CET Member).

2.3. The SC consists of:

- (a) Tara Cavanagh, A/g First Assistant Secretary, Visa Delivery Transformation Division - (Chair);
- (b) Renelle Forster, Assistant Secretary, Channel Management Branch – (Deputy Chair);
- (c) Steven Groves, Chief Finance Officer – (Member);
- (d) Steve McGlynn, A/g First Assistant Secretary, Legal Division – (Member);
- (e) Ian Laverock, Assistant Secretary, Procurements & Contracts Branch – (Member);
- (f) s. 22(1)(a)(ii) A/g Assistant Secretary, Strategy Architecture and Innovation Branch – (Member); and
- (g) Cheryl-anne Moy, First Assistant Secretary, Integrity Security & Assurance Division – (Observer);

2.4. The EC may obtain specialist advice as required. The following specialist advisors have been arranged for this RFT:

- (a) Legal Advisor: s. 22(1)(a)(ii) Senior Legal Officer, Commercial and Employment Law Branch;
- (b) Probity Advisor: s. 22(1)(a)(ii) Director, McGrathNicol;

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- (c) Business Requirements: s. 22(1)(a)(ii) Senior Business Analyst, Client Enquiry Services Project, Channel Management Branch;
- (d) Contract Management Advisor: s. 22(1)(a)(ii) Assistant Director Service Delivery Partners, Visa Reform Taskforce;
- (e) Service Centres' System Support Advisor: s. 22(1)(a)(ii) Director Digital Client Enquiry Support, Channel Management Branch;
- (f) s. 22(1)(a)(ii) Director Client Service Transformation, Channel Management Branch
- (g) Service Centres' Process Advisors: s. 22(1)(a)(ii) Senior Migration Officer, Ottawa and s. 22(1)(a)(ii) Service Support Manager, Sydney Service Centre;
- (h) Architecture Advisor: s. 22(1)(a)(ii) Director Technology Architecture, Strategy Architecture and Innovation Branch;
- (i) Transition Adviser: Assistant Director, s. 22(1)(a)(ii) Service Centre Support Channel Management Branch
- (j) Procurement Specialist: s. 22(1)(a)(ii) Client Enquiry Services Project, Channel Management Branch
- (k) Web Adviser: Director, s. 22(1)(a)(ii) Web Services and Correspondence, Channel Management Branch
- (l) ImmiAccount Adviser: s. 22(1)(a)(ii) Director, Visa & Citizenship Helpdesks, Channel Management Branch
- (m) Australian Border Protection Specialist: s. 22(1)(a)(ii) Superintendent, National Border Programme
- (n) Financial Capacity and Quality Specialist: KPMG.

2.5. RFT support will be provided by (as appropriate to the task):

- (a) Service Centre Support Section:
 - i. s. 22(1)(a)(ii) and
 - ii. s. 22(1)(a)(ii)
- (b) Sourcing and Vendor Management Branch:
 - i. s. 22(1)(a)(ii) and
 - ii.
- (c) Procurement and Contracts Branch:
 - i. s. 22(1)(a)(ii)

2.6. The DIBP Delegate for this RFT is:

- (a) Tara Cavanagh, A/g FAS Visa Delivery Transformation Division.

3. Roles and Responsibilities

- 3.1. All members of the Committees and other officers and advisors involved in the evaluation must be fully prepared for the Evaluation Process. This will involve, as a minimum, each person:

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- i. reading and ensuring that they understand the published RFT Documentation;
- ii. understanding the relationship between the Evaluation Criteria and the requirements in the published RFT Documentation; and
- iii. understanding the Evaluation Processes outlined in this Plan (as relevant to them).

3.2. Evaluation Committee

- (a) The EC will evaluate the submitted Responses, including:
 - i. perform a detailed examination and evaluation of the compliant Responses against the Evaluation Criteria;
 - ii. evaluate and make recommendations on any alternative proposals or options which are part of a compliant Response; and
 - iii. ensure that quality assurance and probity is maintained.
- (b) The EC is responsible for ensuring that the RFT process is open and transparent and that related actions by the Department are documented, defensible and substantiated in accordance with legislation and Government policy.
Any member of the EC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.3. Steering Committee

- (a) The SC will provide oversight of the RFT process, including:
 - i. review the draft Evaluation Report;
 - ii. provide Responses to the EC when necessary, including providing its comments and amendments regarding the draft Evaluation Report; and
 - iii. approving a recommendation for the Delegate's consideration.
- Any member of the SC who is unsure about any matter mentioned above should seek advice from the Chair, a relevant specialist advisor or the Delegate as required.

3.4. Chairs of the Evaluation Committee and the Steering Committee

- (a) The respective committee Chairs will coordinate and manage the activities of the applicable Committee, ensuring that actions and procedures are instituted to support the established standards of probity and official conduct during the Evaluation Process.
- (b) In particular, the Chairs of the applicable Committee will:
 - i. identify and arrange resources to facilitate the objectivity in the Evaluation Process;
 - ii. monitor resources to ensure deadlines are met;
 - iii. manage adherence to this Plan;
 - iv. ensure suitable records of issues and correspondence are maintained to support the Evaluation Process;

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- v. provide regular progress reports to the Delegate and summary reports as required;
 - vi. confirm that all evaluation issues have been addressed in the Evaluation Report;
 - vii. separately document any dissenting views between Evaluation Team members;
 - viii. ensure an audit trail is maintained;
 - ix. ensure adherence to processes set out in this Evaluation and Probity Plan such that:
 - (i) Responses are objectively and consistently assessed in accordance with the published RFT Documentation;
 - (ii) confidential information is secured;
 - (iii) conflict of interest issues are identified and addressed; and
 - (iv) the RFT process is defensible; and
 - x. refer queries, facilitate any examination of the processes, and liaise with the Legal Advisor and the Probity Advisor as required.
- (c) A quorum for the EC will consist of the Chair, or Deputy Chair, and two (2) other EC personnel; and
 - (d) A quorum for the SC will consist of two (2) participants, regardless of position. When both the Chair and Deputy Chair are not in attendance the first action for the SC will be to agree an acting Chair.
 - (e) If a Committee consists of an even number of members, the Chair will have a casting vote on any matter of dispute where the members are equally divided.

3.5. Deputy Chair of the Evaluation Committee and the Steering Committee

- (a) The person appointed Deputy Chair will be responsible for:
 - i. assisting the Chair where necessary;
 - ii. progressing activities in the Chair's absence; and
 - iii. having a casting vote in the absence of the Chair if required.

3.6. RFT support

- (a) The person(s) appointed as RFT support are responsible for:
 - i. publishing documents on AusTender;
 - ii. coordinating addenda releases, including clearances;
 - iii. downloading, registering and recording Responses from AusTender;
 - iv. screening all registered Responses to identify incomplete or non-compliant Responses with the RFT Documentation;
 - v. provide copies of RFT Register and Responses to the EC and SC, as set out in this Procurement and Evaluation Plan;
 - vi. co-ordinating meetings of the EC and SC;
 - vii. taking minutes and keeping an audit trail of all EC and SC meetings and decisions;

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- viii. arranging for specialist advice as required by the EC and SC;
 - ix. providing procurement and compliance advice; and
 - x. providing advice and guidance on the overall risk presented by the RFT process.
- (b) Persons providing RFT support are not part of the EC or SC and will not participate in any decisions involved in the Evaluation Process.

3.7. Specialist advisors:

- (a) **Legal Advisor:** The Legal Advisor will provide advice as requested to assist the EC and SC in relation to legal and regulatory matters and in ensuring that the legal aspects of all Responses are analysed uniformly, objectively and transparently. The Legal Advisor will provide advice as requested to facilitate the EC's assessment of Responses, particularly in its assessment of legal risks. The Legal Advisor may seek assistance from external legal sources to assist in providing these functions.
- (b) **Probity Advisor:** The Probity Advisor will assist the EC and SC in ensuring that all Responses are analysed fairly, uniformly and transparently, and will be responsible for providing a probity briefing to the Evaluation Team (see Part B of this Plan below). The Probity Advisor may seek assistance from external probity sources to assist in providing these functions.
- (c) **Contract Management Advisor:** If required, the Contract Management Advisor will assist the EC and SC in analysing the contract management issues presented by Responses.
- (d) **Service Centres' System Support Advisor:** If required, the Service Centres' System Support Advisor will assist the EC and SC in analysing the impacts on the support systems for the service centres presented by Responses.
- (e) **Service Centres' Process Advisors:** If required, the Service Centres' Process Advisors will assist the EC and SC in analysing the impacts on the business processes for the service centres presented by Responses.
- (f) **Architecture Advisor:** If required, an Architecture Advisor will assist the EC and SC in providing advice on the Architecture elements (including ICT and security) of the RFT.
- (g) **Cyber Security Advisor:** If required, a Cyber Security Advisor will assist the EC and SC in providing advice on the cyber security elements of the RFT.

3.8. Delegate:

- (a) The Delegate is responsible for:
 - i. considering the recommendations put forward by the EC as approved by the SC, following completion of the Evaluation Process;
 - ii. resolving any issues in relation to any conflict of interest which may be raised in relation to the Chairs of the EC and the SC or which cannot be resolved to the satisfaction of the Chair(s) and the Probity Advisor. The Delegate will be the final arbitrator in resolving issues of conflict of interest; and

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- iii. having considered the Evaluation Report and made all reasonable enquiries, making a decision on a preferred supplier and commencing contract negotiations with the intent of awarding a contract(s).

3.9. In addition to the specific roles and responsibilities identified above, Committee members and all other officers and advisors involved in the Evaluation Process must be fully aware of, and comply with, all requirements of:

- (a) the Commonwealth Procurement Rules (as updated from time to time: available at www.finance.gov.au), especially with respect to ethics and fair dealing with parties submitting, or invited to submit, Responses;
- (b) the Australian Government policy Ethics and Probity In Procurement (available at www.finance.gov.au);
- (c) DIBP's fraud control and anti-corruption plan (<https://bordnet.immi.local/LegalandRisk/Documents/fraud-control-anti-corruption.pdf>) ; and
- (d) all other relevant guidelines that relate to official conduct of Commonwealth public servants.

4. Addenda Handling

4.1. Roles and Responsibilities

- (a) In consultation with RFT support and the Probity Advisor, Channels Strategy and Management Branch (or other personnel as deemed necessary by the Delegate) will be responsible for the preparation of addenda to the RFT;
- (b) RFT support is responsible for quality assuring addenda, including ensuring Probity Advisor clearance has been obtained prior to publication of the addenda;
- (c) The Delegate is responsible for approving the release of addenda;
- (d) RFT support is responsible for publishing addenda on AusTender; and
- (e) The Probity Advisor is responsible for registering the addenda in the probity register.

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For Official Use Only**PART B - PROBITY ASPECTS****5. Process**

- 5.1. The evaluation will be conducted in a systematic and structured manner as set out in the published RFT Documentation and this Plan to ensure an effective and ethical RFT process can be demonstrated.
- 5.2. The purpose of the evaluation is to identify and document the Response(s) that satisfy the requirements specified in the published RFT Documentation.

6. Ethics and Fair Dealing

- 6.1. Paragraph 6 of the Commonwealth Procurement Rules states 'The Australian Government promotes the proper use and management of public resources'. As a result, it is essential that a framework of ethics and fair dealing is established from the start of the Evaluation Process. A specific aspect of ethical behaviour relevant to procurement is an overarching obligation to ensure that all Respondents are treated equitably. All Respondents are entitled to have their Responses assessed ethically and fairly and for this to be seen to have been done. Further to the requirements in paragraph 6.6 of the Commonwealth Procurement Rules, the following are critical to ensuring ethical behaviour in the RFT:
 - (a) seeking prompt advice where probity issues arise;
 - (b) not accepting gifts or hospitality;
 - (c) being scrupulous in the use of public property; and
 - (d) complying with all duties and obligations in:
 - i. the information privacy principles of the *Privacy Act 1988*;
 - ii. the security provisions of the *Crimes Act 1914*; and
 - iii. where applicable, the Australian Public Service's Code of Conduct as set out in the *Public Service Act 1999*.
 - 6.2. All persons involved in the Evaluation Process must demonstrate complete impartiality to, and equitable treatment of, all Responses. A structured, objective, Evaluation Process applying a consistent methodology to all Responses will enable this to be achieved.
- 7. Adherence to Evaluation Criteria**
- 7.1. In conducting the evaluation of the Responses, the EC and the SC must adhere to the published Evaluation Criteria.
- 8. Accountability and Transparency - Audit Trail**
- 8.1. A clear audit trail is necessary to:
 - (a) ensure that the process is fully documented;
 - (b) demonstrate that EC and SC members have acted objectively and logically; and
 - (c) substantiate the basis for the recommendations in the Evaluation Report.
 - 8.2. All EC and SC meetings will be minuted and the Chair of the meeting will approve the minutes as an accurate record prior to the following meeting, and the minutes will then be confirmed as an accurate record at the following meeting. The minutes will be filed as part of the audit trail for the evaluation.

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- 8.3. The EC and SC will ensure that appropriate audit trails are maintained, including identification of who performs what action at what time. The EC will ensure that any action involving the allocation of, or amendment to, scores or independent reviews etc. is properly documented. The EC and SC will ensure sufficient documentation supporting its reasons for all decisions is maintained.
- 9. Gifts, Entertainment and Hospitality**
- 9.1. During the Evaluation Process, Evaluation Team members must abide by the Department's Gifts, Entertainment and Hospitality policy (<https://bordernet.immi.local/FinancialManagement/Documents/accountability-authority-instructions/accountable-authority-instructions.pdf>).
- 9.2. Any offer of gifts, hospitality or entertainment must be reported to the EC or SC Chair immediately. If the offer of gifts or entertainment is made to the EC or SC Chair, the Chair must immediately report the offer to the Delegate.
- 9.3. The Chair (or Delegate), in consultation with the Probity Advisor, will determine what, if any, action is required in relation to any offer of gifts, hospitality or entertainment.
- 10. Conflicts of Interest**
- 10.1. All persons involved in the RFT process (relevant persons) must abide by the Australian Public Service Code of Conduct requirements in respect of conflicts of interest.
- 10.2. In particular, all persons must declare any real or apparent conflict of interest to the EC or SC Chair as applicable (or to the Delegate if the conflict relates to the Chair) before commencing the Evaluation Process.
- 10.3. Conflict of interest declarations should be in the form set out at **Attachment A**.
- 10.4. A conflict of interest will exist if:
- (a) through any current or proposed future dealings or relationships with a Respondent or any related body, a relevant person or their family stands to gain a benefit or advantage from the outcome of the Evaluation Process; or
 - (b) there is any other reason why a relevant person may not deal with a Respondent in an objective manner.
- 10.5. All relevant persons must submit new conflict of interest declarations as soon as any circumstances change which may raise an actual or potential conflict of interest.
- 10.6. Upon receipt of a declaration of an actual or potential conflict of interest, the EC or SC Chair as applicable (or the Delegate if the conflict relates to the Chair) will decide in consultation with the Probity Advisor on the course of action to be taken to resolve the matter. If, in the opinion of the Chair (or Delegate) in consultation with the Probity Advisor, the conflict of interest is not able to be resolved, the person in relation to whom the conflict exists will be excluded from the RFT process (or a particular step(s) in the Evaluation Process).
- 10.7. The Chair may refer any conflict of interest issues to the Delegate, and must do so if the conflict of interest cannot be resolved in the first instance to the satisfaction of both the Chair and the Probity Advisor.

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For Official Use Only**11. Communication**

- 11.1. The procedures and protocols in this section will be implemented to minimise the risk of any improper communication occurring that could influence the probity of the RFT process.
- 11.2. All members of the Evaluation Team are required to comply with the procedures and protocols in this section.
- 11.3. In this RFT process, probity advice is to be provided to all Evaluation Team members as follows:
- (a) no discussions will be held with, or on behalf of, any potential Respondent about the RFT or the decision-making processes except in the manner provided for in this Plan or the published RFT Documentation;
 - (b) no potential Respondent will receive, or should be perceived to have received, more information than is available to all potential Respondents, nor will they receive any information in advance of its being made available generally to all potential Respondents;
 - (c) where appropriate, information provided in response to questions from a potential Respondent will be made available on AusTender (on a non-attributable basis). In addition, all alterations, corrections and notices in connection with the published RFT Documentation will also be made available on AusTender; and
 - (d) contents of all communication to potential Respondents after release of the RFT Documentation must be agreed by the Delegate and the Probity Advisor.
- 11.4. No assistance is to be provided to any potential Respondent, specifically:
- (a) details of any communication or approaches from or on behalf of potential Respondents will be fully documented;
 - (b) all communications from potential Respondents during the RFT process will be through the email address of the Contact Officer identified in the published RFT Documentation;
 - (c) potential Respondents will not be advised on how to develop their Responses apart from guidance that has been made publicly available to all potential Respondents;
 - (d) any past or intended communications with, or the conduct of, potential Respondents that may involve breaches of the probity of the process or alleged illegality, will be referred to the Probity Advisor for investigation and appropriate action; and
 - (e) Responses will not be communicated to people or positions outside those named in this Evaluation and Probity Plan.
- 11.5. All media contact must be managed and approved through the EC Chair. RFT support and the Probity Advisor will consult with the National Communications Branch as appropriate, in order to recommend a response for the Chair's approval.

12. Industry Briefing

- 12.1. An industry briefing will be offered to all potential Respondents prior to the closing time for Responses.

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- 12.2. Potential Respondents will be required to register their attendance at the industry briefing.
- 12.3. The industry briefing will take the form of a prepared presentation.
- 12.4. If there are any questions or further discussions at the industry briefing, those questions and answers will be released to all potential Respondents in the form of addenda to the published RFT Documentation.
- 12.5. The Probity Advisor may attend the industry briefing (if required) to ensure that probity requirements are met during and after the briefing.

13. Confidentiality

- 13.1. Responses will be treated as confidential as described in the published RFT Documentation.
- 13.2. Responses will be kept secure and will not be used so as to prejudice a fair, open and competitive process.
- 13.3. Commonwealth public servants who are members of the Evaluation Team will be required to complete a Confidentiality Acknowledgement (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.4. Any members of the Evaluation Team who are not Commonwealth public servants will be required to complete a Deed of Confidentiality (in the form at **Attachment B – Confidentiality Forms**) before being provided with any Responses.
- 13.5. No discussion will occur with any person outside of the Evaluation Team and the Delegate regarding any aspect of the RFT or the Evaluation Process without the approval of the EC Chair in consultation with the Probity Advisor.

14. Security

- 14.1. Dedicated, lockable containers and secure IT storage devices will be used to store Responses and other RFT related documentation. The containers and devices will be maintained as a secure storage area in which all sensitive documentation will be kept when not in use by the Evaluation Team.
- 14.2. A copy of each Response will be made available to each EC member. No additional copies or copying of any part of the Responses will be permitted without the written authorisation of the EC Chair.
- 14.3. All copies of Responses and other material associated with the Responses and/or the evaluation will be kept in the secure storage areas or a designated evaluation room and will not be left unattended during the Evaluation Process or removed from the secure storage areas or the designated evaluation room without the express permission of the EC Chair.
- 14.4. RFT documentation will be marked as 'For-Official-Use-Only' or 'Sensitive'.

15. Probity Briefing and Signoffs

- 15.1. Apart from the Probity Advisor, all Evaluation Team members must attend an appropriate probity briefing prior to their involvement in the Evaluation Process. The probity briefing will be conducted by the Probity Advisor.
- 15.2. The Probity Advisor will be required to provide confirmation that all probity aspects of the RFT have been satisfactorily followed at the following stages of the Evaluation Process:
 - (a) before submission of this Plan to the Delegate;

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- (b) before the release of the RFT Documentation to the market;
- (c) before the exclusion of any Response from further consideration (including through a short listing process); and
- (d) before the submission of the final Evaluation Report to the Delegate.

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For Official Use Only**PART C - EVALUATION PROCESS****16. Overview**

- 16.1. The EC will evaluate Responses against the Evaluation Criteria and will consider the overall risk presented by the Respondents.
- 16.2. The Evaluation Process will be undertaken using the following steps:
- (a) Step 1: Receipt and Registration of Responses
 - (b) Step 2: Initial Screening
 - (c) Step 3: Technical Evaluation
 - (d) Step 4: Commercial Evaluation (non-technical Evaluation Criteria)
 - (e) Step 5: Overall Value for Money Assessment (including Viability and Risk)
 - (f) Step 6: Evaluation Report
 - (g) Step 7: Steering Committee's consideration of the Evaluation Report
 - (h) Step 8: Notification and Debriefing.

17. Timing

- 17.1. The proposed timetable for the process is set out in **Attachment C**. The dates in the timetable may change in accordance with the Department's requirements.

18. Step 1: Receipt and Registration of Responses

- 18.1. As soon as practicable after the closing time for the RFT, RFT support will download the Responses from AusTender.
- 18.2. A minimum of two RFT support personnel will register and record all Responses received before the closing time for the RFT on a Register. That Register will be signed by all personnel who conducted the receipt and registration of the Responses.
- 18.3. Any Responses received after the closing time for the RFT and any disputes or issues regarding receipt of Responses will be managed by RFT support and the Probity Advisor.
- 18.4. As soon as practicable after finalisation of the receipt and registration process, RFT support will provide the EC Chair with, or appropriate electronic access to, one copy of the Register and one copy of all Responses. The EC Chair will not distribute the Responses until the initial screening (Step 2) has been completed.

19. Step 2: Initial Screening

- 19.1. RFT support will screen all registered Responses to identify any that:
- (a) fail to comply with any Conditions of Participation identified in the RFT Documentation (other than financial and commercial viability which will be assessed at Step 5);
 - (b) fail to comply with any Minimum Content and Format Requirements identified in the RFT Documentation;
 - (c) contain unintentional errors of form; or
 - (d) are otherwise non-compliant with the RFT Documentation.

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- 19.2. Subject to subclause 19.5, the EC will exclude any Responses from further consideration which have not complied with any of the Conditions of Participation or any of the Minimum Content and Format Requirements.
- 19.3. In consultation with the Probity Advisor, the EC may also exclude a Response from further consideration where, in the EC's reasonable opinion, the Response is incomplete or is otherwise so clearly non-competitive, that it is likely to be evaluated so as to represent no material value for the Commonwealth. The EC may, however, decide to consider these Responses and seek clarification (in accordance with paragraph 19.6 below) if it believes that this is appropriate.
- 19.4. Screening is an ongoing process and is therefore subject to consultation with RFT support and the Probity Advisor. The EC may decide during any stage of the Evaluation Process to exclude a Response from further consideration on the basis that it falls within the categories described in this step.

Unintentional errors of form

- 19.5. If the EC considers that there are unintentional errors of form in a Response, the EC may ask the Respondent to correct or clarify the error. However, no material alteration or addition to that Response will be permitted. Any consideration to issue requests for correction or clarification of errors of form will be referred to the Probity Advisor for advice.

Clarifications

- 19.6. Clarification of Responses may be sought at any time during the Evaluation Process. All requests for clarification in relation to a Response will be in writing and from the Contact Officer specified in the published RFT Documentation, and answers from Respondents must be in writing and submitted in accordance with the RFT Documentation.
- 19.7. The EC Chair should consult the Probity Advisor before issuing any clarification question. Additional or new information must not be sought unless it is by way of clarification of elements of the information already submitted with the Response.
- 19.8. Clarifications will focus on addressing an ambiguity, error or omission that is relevant to the evaluation of a Response. Where a clarification is of a more general nature, then advice/information will be requested from all Respondents who have submitted a Response.

Distribution of Responses

- 19.9. The technical and financial evaluation of Responses will be undertaken independently of each other to ensure one element does not unduly influence the other. RFT support will be responsible for separating the technical and the financial elements of the Responses. In particular, no pricing detail is to be supplied to the TET.
- 19.10. RFT support will provide the EC Chair with, or appropriate electronic access to, the separated Responses. The EC Chair will provide the TET and CET with appropriate access to the Responses.

20. Step 3: Technical Evaluation

- 20.1. The TET lead, in consultation with the EC Chair, is responsible for ensuring the Technical Evaluation is completed in a timely manner and in accordance with this EPP.

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For Official Use Only***Scoring of technical Evaluation Criteria***

- 20.2. The Members of the TET will consider all relevant information for each technical Evaluation Criterion (**PART D** below sets out those Evaluation Criteria that are technical criteria) provided in each Response and conduct an objective analysis against each technical Evaluation Criterion. Where appropriate, the TET may use material tendered in response to one Evaluation Criterion in the evaluation of other Evaluation Criteria.
- 20.3. The TET may also make independent enquiries with any relevant person or entity about any matter that may be relevant to the evaluation of any Response, and consider the results of their enquiries. The independent enquiries must be consistent with this EPP and the TET must seek agreement from the EC Chair prior to making such independent enquiries. The TET, however, must not incorporate new information and/or material into a Response. If the enquiry result is adverse or contrary to what is provided in the Response, the EC Chair, in consultation with RFT support and the Probity Advisor, will consider the next appropriate step, within the framework of the RFT Documentation.
- 20.4. A minimum of two members of the TET will score each technical Evaluation Criterion for each Response. The TET members will then meet and discuss their individual scores, and agree a score for each technical Evaluation Criterion for each Response
- 20.5. If alternative Responses are received and accepted for evaluation (in accordance with the relevant provisions of the RFT Documentation), a technical evaluation of the alternative Responses will be undertaken upon completion of the technical evaluation of complying Responses.
- 20.6. Each TET member will assess each technical Evaluation Criterion using objective scoring. The 11 Point Evaluation Scale in **Attachment D** proposes a rating scale with commentary and guidance to assist members of the TET to remain objective in applying scoring for the technical Evaluation Criteria. The evaluation scale is intended as a guide for the TET members to determine the score to be given to a Response.
- 20.7. Weightings will then be applied to each score for each technical Evaluation Criteria in accordance with the weightings specified in **PART D** below.

Technical evaluation risks

- 20.8. Each member of the TET is responsible for recording all risks identified through the technical evaluation process. Any risks that are not addressed or mitigated through site visits, presentations or referee checks must be presented to the EC for consideration in assessing Value for Money.

Site visits, presentations, referee checks

- 20.9. After reviewing the Responses, in order to appropriately and completely evaluate the Response, the TET may decide to:
- (a) conduct visits to Respondents' sites;
 - (b) seek presentations by Respondents;
 - (c) conduct referee checks;
 - (d) discuss with, or visit, customers or subcontractors of Respondents, whether or not the customers are provided as referees by a Respondent; and/or
 - (e) carry out independent enquiries in relation to any matter that may be relevant to the evaluation of a Response.

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- 20.10. The EC may require Respondents to give presentations of their Response. Presentations may be held in conjunction with site visits. The TET will confirm schedule times with the relevant Respondents.
- 20.11. Where interviews or presentations are conducted, the EC will decide which questions will be asked of all Respondents and, if applicable, which questions will apply to specific Respondents.
- 20.12. The EC Chair, in consultation with the lead of the TET, will designate a member(s) of the TET to undertake referee checks if required. Before any referee checks are undertaken, the EC will agree a list of questions that will be asked as part of each referee check and the format that will be used to record answers.
- 20.13. Following the conclusion of any site visits, presentations, referee checks and/or obtaining of further information through independent enquiries, the TET will, in light of the further information received, review and, where applicable, revise scores for the technical Evaluation Criteria.

Setting aside

- 20.14. At any stage of the technical evaluation the TET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 20.15. At any stage of the technical evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

21. Step 4: Commercial Evaluation (non-technical Evaluation Criteria)

- 21.1. The CET lead, in consultation with the EC Chair, is responsible for ensuring the Commercial Evaluation is completed in a timely manner and in accordance with this EPP.
- 21.2. The Commercial Evaluation consists of:
 - (a) a Financial Assessment;
 - (b) a financial viability assessment; and
 - (c) a commercial assessment.
- 21.3. The Commercial Evaluation is to be conducted independently of the Technical Evaluation; however it may be conducted concurrently with the Technical Evaluation.

Financial assessment

- 21.4. The purpose of the Financial Assessment is to ensure that pricing provided in the Responses is normalised across the Responses to allow a fair and valid assessment of the costs for each Response in order to undertake a Value for Money assessment.
- 21.5. Financial Assessments may be conducted only on Respondents that have not been previously set aside.

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For Official Use Only***Financial viability assessment***

- 21.6. The CET members of the EC will also undertake and document financial viability assessments based on standard industry practice, utilising external financial resources to assist in this process.
- 21.7. Financial viability assessments may be conducted only on Respondents that have not been previously set aside.
- 21.8. The CET members will discuss their findings for each Respondent with the EC Chair, who may direct further work to be done if the EC Chair is not satisfied with the level of justification for the assessed financial viability of any Respondent.

Commercial assessment

- 21.9. The commercial assessment will identify the commercial risks associated with each Response including any proposed amendments to the commercial terms proposed in the draft contract issued with the RFT.

Setting aside

- 21.10. At any stage of the financial evaluation the CET may recommend to the EC that a Response be set aside from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above.
- 21.11. At any stage of the financial evaluation or after its completion the EC may set aside a Response from further evaluation if it is deemed appropriate to do so in accordance with clause 19.3 above. However, before setting aside a Response the EC must:
 - (d) fully document its reasons as to how and why it has set aside the Response(s);
 - (e) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (f) inform the SC of the proposed setting aside of the Response.

22. Step 5: Overall Value for Money Assessment (including Viability and Risk)***Proposed confidential information***

- 22.1. Where a Response indicates that a potential supplier wishes the Department to keep certain information confidential, the EC may refer the matter to the Legal Advisor for advice. The Legal Advisor will advise on the issues raised and assess whether these concerns are likely to be able to be resolved or represent a significant risk to the Department.
- 22.2. The EC will consider any report of the Legal Advisor.

Assessing risks

- 22.3. In determining the risk profile presented by each Respondent, the EC will assess risk in terms of the likelihood of the Respondent achieving what has been offered in its Response and any other risk associated with the Response. Guidance on the risk assessment process is in **Attachment E**.
- 22.4. The EC members will need to reach a consensus as to whether a risk actually exists, the likelihood of the risk occurring and the consequences for the Department if the identified risk eventuates.

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Risk and score revision

- 22.5. Following the completion of the risk assessment process, the EC will review and, where applicable, revise scores or rankings for each Response.

Setting aside

- 22.6. If, in the opinion of the EC, a risk is deemed to actually exist and the mitigated consequence(s) of that risk is too great for the Department to accept, the EC may set aside a Response from further evaluation. However, before setting aside a Response the EC must:
- (a) fully document its reasons as to how and why it has set aside the Response(s);
 - (b) seek advice from the Probity Advisor as to whether setting aside the Response meets all probity requirements; and
 - (c) inform the SC of the proposed setting aside of the Response.

Value for Money

- 22.7. Following the completion of the independent Technical and non-Technical evaluations of the Responses, the EC will undertake an overall assessment of Value for Money taking into account the results of the Technical evaluation, the non-Technical evaluation and all identified risks (including the financial viability of the Respondents).
- 22.8. The EC will determine a ranking of the Responses based on the overall value for money assessment.
- 22.9. The EC may recommend one or more preferred tenderers to enter into contract negotiations with including identifying risks and key expected outcomes from any subsequent negotiation.

23. Step 6: Evaluation Report

- 23.1. The EC will prepare an Evaluation Report, which includes the following:
- (a) an executive summary (if the EC considers this would be useful);
 - (b) an outline of the RFT processes followed by the EC;
 - (c) evaluations with scores, any comparative evaluation adjustments used during the evaluation and the overall assessment of Responses;
 - (d) a summary of the EC's assessment of each Response; and
 - (e) recommendations as to the preferred tenderer(s).
- 23.2. The EC may submit a draft Evaluation Report to the SC and/or the Probity Advisor for guidance on its development.
- 23.3. Members of the EC will sign the Evaluation Report to indicate their concurrence with it. Dissenting members may submit an alternative report.
- 23.4. The EC Chair will submit the Evaluation Report to the Probity Advisor for endorsement.

24. Step 7: Steering Committee's consideration of the Evaluation Report

- 24.1. After receiving endorsement from the Probity Advisor, including making any revisions this advisor considers necessary, the EC Chair must submit the Evaluation Report to the SC for endorsement.

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- 24.2. The SC must consider the Evaluation Report and any alternative reports. Where the SC seeks to make material alterations to the Evaluation Report, the SC Chair will discuss these alterations with the EC.
- 24.3. The SC Chair will annotate any changes on the Evaluation Report and seek endorsement of the SC. The members of the SC will indicate their endorsement of the Evaluation Report, including any annotated changes, by signing the report. Once endorsed by the SC, the SC Chair must resubmit the draft Evaluation Report to the Probity Advisor for their endorsement.
- 24.4. The Evaluation Report, as endorsed by the SC and the Probity Advisor, will then be submitted to the Delegate for approval.

25. Step 8: Notification and Debriefing

- 25.1. Notification of the outcomes of the RFT will be undertaken in various stages for the purposes of letting Respondents know the outcome as soon as practicable.
- 25.2. Note: Respondents are not to be informed that they are unsuccessful until a contract has been awarded.

Responses set aside

- 25.3. Once the SC has agreed to set aside a Response, the EC Chair will be responsible for advising the Respondent in writing that they are currently not the preferred tenderer.

Preferred Tenderer

- 25.4. Once the Delegate has selected one or more preferred tenderers, the EC Chair will be responsible for informing the preferred tenderer(s) of their preferred tenderer status and inviting them to negotiations. The EC Chair will be responsible for advising all other Respondents in writing that they are currently not the preferred tenderer.

Contract award

- 25.5. Once a contract has been awarded, the EC Chair will be responsible for notifying all Respondents in writing, including giving the opportunity to attend a verbal debriefing.

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For Official Use Only**PART D - EVALUATION CRITERIA****26. Evaluation Criteria**

- 26.1. As set out in Part C, the Responses will be evaluated by the TET and CET members of the EC. The TET will evaluate the responses against the weighted Technical Criteria. The CET will evaluate the Responses against the unweighted Non-Technical Criteria.
- 26.2. Compliance checks will be undertaken by RFT support against the Conditions for Participation. In addition to the Conditions for Participation, requirements identified as 'must' are also mandatory in accordance with the Commonwealth Procurement Rules.
- 26.3. The technical Evaluation Criteria are broken into Evaluation Sub-Criteria to assist in evaluating the responses. Each of the requirements in the Statement of Requirements will be mapped to an Evaluation Criteria or Evaluation Sub-Criteria. The weightings of the Evaluation Sub-Criteria will not be published to minimise the risk that Respondents will neglect to provide adequate responses to lower weighted sub-criteria.

27. Conditions for Participation

- 27.1. The Conditions for Participation for this RFT are:
- (a) The Tenderer must submit the Tender by the Closing Time;
 - (b) The Tenderer must be financially and commercially viable to perform the Services;
 - (c) The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim;
 - (d) The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the Charter of the United Nations Act 1945 (Cth); and
 - (e) The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the Charter of United Nations (Dealing with Assets) Regulations 2008 (Cth).

28. Minimum Content and Format Requirements

- 28.1. The Minimum Content and Format Requirements for this RFT are:
- (a) The Tenderer must Tender for all the Services in the Statement of Requirement. No Tenders for only part of the Services set out in the Statement of Requirement will be allowed;
 - (b) The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in the Tenderer Response Forms;
 - (c) The Tenderer must comply with AusTender lodgement requirements and procedures; and
 - (d) Measurements in the Tender must be expressed in Australian legal units of measurement.

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For Official Use Only**29. Technical Criteria**

29.1. The technical Evaluation Criteria for this RFT are:

No.	Evaluation Criteria	Weighting
1	Technical Capability	65%
2	Implementation Approach	20%
3	Capacity and Organisational Capability	7.5%
4	Continuous Improvement	7.5%

30. Non-Technical Criteria

30.1. The non-technical Evaluation Criteria (which are unweighted) are:

No.	Evaluation Criteria
5	Price
6	Risk (including financial viability and commercial risks)

30.2. The non-technical Evaluation Criteria will be considered in terms of the risk that the Response represents to the Department and will be used to determine the overall Value for Money of the Response.

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For Official Use Only**Agreement and Approval of the Plan****Agreement to the Evaluation and Probity Plan by Steering Committee and Evaluation Committee**

I agree to the terms and conditions of this Plan.

Evaluation Committee

s. 22(1)(a)(ii)

(Chair and TET Member)

(Deputy Chair – TET Lead)

(TET Member)

s. 22(1)(a)(ii)

(signature)

20/7/2017

(date)

(signature)

24/7/17.

(date)

(signature)

20/7/17

(date)

s. 22(1)(a)(ii)

(TET Lead)

(CET Lead)

(CET Member)

s. 22(1)(a)(ii)

(signature)

20/7/17

(date)

(signature)

21/7/17.

(date)

(signature)

24 June 2017

(date)

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Steering Committee

Tara Cavanagh (Chair)

Renelle Forster (Deputy Chair)

Steven Groves (Member)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

(signature)

19/7/2017

(date)

(signature)

19/7/17.

(date)

Steve McGlynn (Member)

Ian Laverock (Member)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

(signature)

19/8/2017

(date)

(signature)

19/7/2017

(date)

Cheryl-anne Moy (Observer)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

Approval of Delegate

I, the Delegate, approve the contents of this Plan.

Tara Cavanagh

(A/FAS Visa Delivery Transformation Division)

s. 22(1)(a)(ii)

(signature)

19/7/2017

(date)

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Attachment A

Conflict of Interest Declaration

I have been asked to disclose any interest that I may have which would preclude me from undertaking my role as a member of the Evaluation Committee (EC) or as an advisor to the EC in the procurement process being undertaken by the Department of Immigration and Border Protection (the **Department**) for the procurement of:

I understand that a conflict of interest can arise out of any relationship, either personal, financial or professional, with any potential respondent, or employee or advisor of any potential respondent, such that a potential respondent, or any employee or advisor of a potential respondent, or myself or a member of my direct family, could benefit personally in some way from the outcome of the procurement process.

To the best of my knowledge and belief I have not had, and do not have any relationship which may give rise to a conflict of interest. **[Delete if not applicable.]**

I declare below relationships which may give rise to a conflict of interest at the attachment to this declaration. **[Delete if not applicable.]**

I am aware of the Department's requirement for strict probity in the procurement process and if I subsequently discover that there is a relationship with any potential respondent which does or may constitute a conflict of interest, I will immediately report it to the EC chair.

I will also immediately report to the EC Chair any direct or indirect contact that I have with any potential respondent, or any employee or advisor of any potential respondent, which is not officially authorised, including any approach made to me in the way of a direct or implied offer of future employment or other benefit.

Dated the day of 20

Signed:

Name:

Address:

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For Official Use Only**Attachment B – Confidentiality Forms****Deed of Confidentiality**

This Deed Poll is made by:

Name: _____

Address: _____ **(Participant)**

For the benefit of the Commonwealth of Australia as represented by the Department of Immigration and Border Protection **(Department)**

- A. The Participant is performing duties associated with the Department's procurement process for _____ **(Procurement Process)**.
- B. The Participant will access Confidential Information during the Procurement Process.
- C. Confidential Information means information (however stored) that:
 - (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
 but does not include information that:
 - (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.
1. The Participant undertakes in respect of the Confidential Information:
 - (a) to keep it secret;
 - (b) to use it solely for the Procurement Process;
 - (c) to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
 - (d) not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
 - (e) not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
 - (f) to obey the directions of the Department and its representatives in dealing with the Confidential Information;
 - (g) to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
 - (h) to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

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For Official Use Only**Confidentiality Acknowledgement**

Name: _____

Address: _____ (Participant)

- A. The participant is a Commonwealth public servant working for or with the Department of Immigration and Border Protection (**Department**).
- B. The Participant is performing duties associated with the Department's procurement process for _____ (**Procurement Process**).
- C. The Participant will access Confidential Information during the Procurement Process.
- D. Confidential Information means information (however stored) that:
- (a) is by its nature confidential;
 - (b) was obtained as a consequence of assisting the Department with the Procurement Process;
 - (c) is designed by a Respondent in the Procurement Process as confidential; or
 - (d) the Participant knows or ought to have known is confidential
- but does not include information that:
- (e) is in the public domain (other than by breach of this Deed);
 - (f) is in the possession of the Participant without restriction in relation to disclosure before the date of receipt;
 - (g) was independently developed or acquired by the Participant; or
 - (h) is required to be disclosed by law.

The Participant acknowledges that, in respect of the Confidentiality Information, the Participant is required under the terms of their employment:

1. to keep the Confidential Information secret;
2. to use it solely for the Procurement Process;
3. to notify the Department immediately if the Participant has been asked to disclose it, or has been, or is likely to be, required by law to disclose it;
4. not to copy or make any note or record of it except as required for the Procurement Process, and to mark any copy with 'For-Official-Use-Only' or 'Sensitive';
5. not to remove any document or other record (in any form) containing the Confidential Information from the premises of the Department;
6. to comply with the directions of the Department and its representatives in dealing with the Confidential Information;
7. to immediately notify the Department of any suspected or actual use, copying or disclosure of the Confidential Information by any person for purposes other than the Procurement Process; and
8. to return the Confidential Information and all copies, notes and other records of the Confidential Information to the Department immediately upon request.

SIGNED:

By _____)
[Name of Participant])On: _____)
[Date])

[Signature of Participant]

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For Official Use Only**Attachment C****RFT EVALUATION TIMETABLE**

Task to be Completed	By Whom	By When
Finalise Procurement Plan	s22(1)(a)(ii)	24 May 17
Finalise Evaluation and Probity Plan		24 May 17
Finalise Procurement Documentation		31 May 17
Obtain Legal, Probity Advisor and Delegate clearance of documentation, resource arrangements		31 May 17
Conduct probity briefings		As required
Receive conflict of interest and confidentiality forms (as required) from Evaluation Team members		As required
Procurement Documentation released	Policy, Panels and Reporting Section	16 Jun 17
Set up document management arrangements such as TRIM storage location/s	s22(1)(a)(ii)	16 Jun 17
Receive Responses	Policy, Panels and Reporting Section	20 Jul 17
Register Responses and complete compliance check	Policy, Panels and Reporting Section	21 Jul 17
Provide Evaluation Committee with TRIM Location/s for Responses	s. 22(1)(a)(ii)	24 Jul 17
Assess Responses against Evaluation Criteria (including financial viability evaluation)	Evaluation Committee	24 Jul – 25 Aug 17
Provide draft Evaluation Report to Probity Advisor and Legal Advisor	Evaluation Committee, Chair	26 Aug 17
Finalise Evaluation Report	Evaluation Committee	27 Aug 17
Submit Evaluation Report to Steering Committee	Evaluation Committee, Chair	28 Aug 17
Submit Evaluation Report to Delegate	Steering Committee	1 Sep 17
Conduct negotiations for contractual arrangements	TBD	11 Sep – 14 Nov 17
Advise successful and unsuccessful supplier(s)	Evaluation Committee, Chai	17 Nov 17

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Attachment D

11 POINT EVALUATION SCALE

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11 Point Evaluation Scale

	Does the offer satisfy the evaluation criterion?	Where there are deficiencies, what level are those deficiencies?	To what level does the supporting information provide confidence of success?	Are there any shortcomings/missing information with the submission?	Score	Descriptor	Narrative
Leading	Yes	N/A	Very High	No	10	Excellent	The submission has no shortcomings in any way and the evaluator has very high confidence that all aspects of the offer will be met.
	Yes	N/A	Very High	Yes	9	Superior	The offer satisfies the evaluation criterion in all respects. The evaluator has a high level of confidence that the Service Provider will meet all aspects of the offer. The Service Provider's claims are fully supported by the information provided. Supporting information is comprehensive and complete.
	Yes	N/A	High		8	Very Good	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider's claims are fully supported by the information provided. Supporting information is comprehensive and complete.
Preferred	Yes	N/A	Generally		7	Good (plus)	The offer satisfies the evaluation criterion in all respects. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider's claims are well supported by the information provided. Supporting information is largely comprehensive and complete.
	Largely	Minor			6	Good	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider's claims are mainly supported by the information provided. Supporting information is generally comprehensive and complete.
	Largely	Medium			5	Good (minus)	The offer largely satisfies the evaluation criterion. The evaluator has no reason to believe that the Service Provider will not meet the required standard. The Service Provider's claims are largely supported by the information provided. Supporting information is generally acceptable.
Acceptable	Largely	Major			4	Acceptable (plus)	The offer largely satisfies the evaluation criterion. There are some deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
	Partially	Minor			3	Acceptable	The offer partially satisfies the evaluation criterion to an acceptable degree. There are some minor deficiencies and shortcomings in the scope and detail of the supporting information and the evaluator has some reservations regarding the complete satisfaction of the required standard.
Unacceptable	Partially	Major			2	Marginal	The offer has some shortcomings and does not fully satisfy the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has some reservations regarding the Service Provider's ability to satisfy the required standard.
	Barely				1	Poor	The offer barely satisfies, or does not satisfy, the evaluation criterion. There are major deficiencies in the scope and detail of the supporting information and the evaluator has significant reservations regarding the Service Provider's ability to satisfy the required standard.
	No		0		Non-compliant	The offer does not satisfy the evaluation criterion. There are major deficiencies in all aspects of the supporting information and the evaluator considers that the Service Provider has not satisfied the required standard.	

For Official Use Only**Attachment E****RISK ASSESSMENT****Risk Identification**

As part of the evaluation of Responses against each Evaluation Criterion, the Evaluation Committee (EC) member will identify and document any risks associated with each Respondent achieving the claims set out in its Response. The EC will reach a consensus as to whether a risk actually exists and what the nature of that risk might be.

Following the identification of risks, an assessment of risk will be undertaken which involves considering the consequence of the risk and the likelihood of each risk occurring. These will then be combined to determine the overall risk.

All decisions will be appropriately documented for use throughout this evaluation process.

The overall risk will then be considered in the context of the rating scale included in section 22 of this Plan.

Determination of Risk Consequence

The consequence of identified risks will be classified as Severe, Major, Moderate, Minor or Insignificant depending on the nature of the identified risks. Guidance on classifying risks is given by the following table:

Consequence	Description
Severe	<ul style="list-style-type: none"> – would cause significant financial loss – threaten the Department's viability – result in extreme political / community sensitivity and media scrutiny – result in a Commission of Inquiry or Inquest – result in death or permanent disability
Major	<ul style="list-style-type: none"> – would cause major financial loss – threaten the continuation of a program or project – impact adversely on the achievement of the Department's strategic objectives – result in significant political / community sensitivity and media scrutiny – result in Ministerial intervention – require audit – result in life threatening or serious injury which is irreversible requiring medical attention and ongoing treatment
Moderate	<ul style="list-style-type: none"> – would cause moderate to high financial loss – would not threaten a program or project but could result in a significant review – result in some political / community sensitivity and media scrutiny – result in parliamentary questions – require management initiated reviews – some impact on the Department's operational objectives – result in injury or health impacts that are reversible but may require medical attention but limited ongoing treatment

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Consequence	Description
Minor	<ul style="list-style-type: none"> would cause medium to low financial loss could require action to offset the impact on some aspect of a program or project limited impact on the Department's operational objectives limited political / community sensitivity management reporting required may result in minor injury or reversible health damage which may require ongoing treatment
Insignificant	<ul style="list-style-type: none"> would have an insignificant or low financial loss any consequences can be dealt with by routine operations or management action no reputation damage any injuries can be dealt with through primary first aid

Assessment of Risk Likelihood

This assessment is based on the likelihood that the risk will occur in light of the Response provided by each Respondent. Guidance on this assessment is given in the following table:

Likelihood	Description
Almost certain	Can be expected to occur in most circumstances within the next year
Likely	Will probably occur in most circumstances within the next two to five years
Possible	May occur in most circumstances within the next five to 10 years
Unlikely	Could occur at sometime within the next 10 to 20 years
Rare	Expected to occur only in the most exceptional circumstances

Risk Matrix Table

The risk matrix table shows the relationship between the likelihood and the consequences /impact of risk to produce an overall level or risk

Likelihood	Consequences				
	Extreme	Major	Moderate	Minor	Insignificant
Almost certain	High	Significant	Significant	Moderate	Moderate
Likely	High	Significant	Moderate	Moderate	Moderate
Possible	Significant	Significant	Moderate	Moderate	Low
Unlikely	Significant	Moderate	Moderate	Low	Low
Rare	Moderate	Moderate	Low	Low	Low

High avoid undertaking the activity OR implement new controls

Risk plan must be signed off at executive level

Significant consider suspending or ending activity OR implementing additional controls

Senior Executive attention to risk plan is required

Moderate ensure that controls are in place and operating and that management responsibility for controls is agreed

Low manage by routine procedures and accountabilities

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s22(1)(a)(ii)

From: Tara CAVANAGH
Sent: Friday, 21 July 2017 3:02 PM
To: s22(1)(a)(ii)
Cc: Renelle FORSTER; s22(1)(a)(ii)
Subject: RE: Amendments to the Evaluation and Probity Plan [SEC=UNCLASSIFIED]

UNCLASSIFIED

Approved

Tara Cavanagh
 A/g FAS Digital Transformation and Channels Division
 Visa and Citizenship Services Group
 Department of Immigration and Border Protection
 Mob: s22(1)(a)(ii)
 : s22(1)(a)(ii)

UNCLASSIFIED

From: s22(1)(a)(ii)
Sent: Friday, July 21, 2017 11:39 AM
To: Tara CAVANAGH s22(1)(a)(ii)
Cc: Renelle FORSTER s22(1)(a)(ii)
Subject: Amendments to the Evaluation and Probity Plan [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi Tara,

Further to the Evaluation and Probity Plan (EPP) for the Client Enquiry Services (CES) Request for Tender (RFT) you recently approved, the project is seeking to make some minor personnel changes to reflect the recent availability of personnel to assist with evaluation.

To ensure these changes are managed efficiently and effectively, I am seeking your agreement to the changes via email. Your reply email will be appended to the approved EPP as a record of the change.

The changes are:

1. In the Commercial Evaluation Team (CET) (paragraph 2.2) include the following personnel in the following roles:
 s22(1)(a)(ii) Visa Reform Implementation Project – (Lead CET); and
 s22(1)(a)(ii) Finance Manager, Policy Group Finance – (CET Member).

These changes reflect that the project has been able to identify the names of the individuals for the CET and assign their roles.

Would you please reply to this email to record your approval (or otherwise) to these changes.

Thank you

s22
(1)(a)

s22(1)(a)(ii)

Director

Service Centre Support Section

Channel Management Branch

Digital Transformation and Channels Division

Visa and Citizenship Services Group

Department of Immigration and Border Protection

P: s22(1)(a)(ii) M: s22(1)(a)(ii)

E: s22(1)(a)(ii)

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MINUTE

To: Acting FAS Digital Transformation and Channels Division

Date: 6 June 2017

KEY INFORMATION AND APPROVALS REQUIRED FOR THE CLIENT ENQUIRY SERVICES REQUEST FOR TENDER

Timing

Approval of this Minute is required by 10.00am on 7 June 2017 to support an approach to market by 9 June 2017.

Purpose

To:

1. Advise you of the key dates and activities associated with the Client Enquiry Services Request for Tender (RFT) for release to market and evaluation
2. Seek your approval for the RFT to be released to market (**Attachment A**)
3. Seek your approval of the proposed membership and responsibilities of the RFT Evaluation Team
4. Seek your approval of the proposed membership and responsibilities of the RFT Steering Committee
5. Seek your approval of the Procurement Plan (**Attachment B**)
6. Seek your approval of the Evaluation and Probity Plan (**Attachment C**).

Issues

Key Dates and Activities

7. The following dates identify the sequence of required activities leading up to Service Provider contract signature:

Date	Activity
Tuesday 6 June	Email letter to down-selected Respondents regarding RFT release, Deed of Non-Disclosure, Industry Day registration.
Wednesday 7 June	Message from AS CMB regarding imminent release of RFT
Wednesday 7 June	RFT sent to Procurement, Panels and Reporting - Assurance Review
Thursday 8 June	AS CSMB - Branch Probity Email and Advising of Industry Briefing

Date	Activity
Thursday 8 June	RFT uploaded to AusTender by Procurement, Panels and Reporting Team for release to market (12:01 am)
Friday 9 June	RFT released to market (12:01 am)
Friday 9 June	CPSU advised of RFT release to market (email from AS CSMB)
Thursday 15 June	Industry Briefing
Monday 17 July	RFT Respondents Closure (2.00pm)
Wednesday 19 July	RFT Evaluation Commences
Thursday 24 August	RFT Evaluation Report approved by RFT Steering Committee
Monday 28 August	Obtain Deputy Secretary agreement and Delegate approval
Tuesday 29 August	Notify preferred RFT Respondent (Service Provider)
Wednesday 30 August	Notify non - preferred RFT Respondents
Tuesday 5 September	Commence contract negotiations
Friday 10 November	Contract signed

Final Version of the RFT

8. The RFT is planned to be released to market via AusTender on Friday 9 June (at 12:01am).
9. A final version of the RFT is at **Attachment A**.

Proposed RFT Evaluation Team Responsibilities and Membership

10. The RFT Evaluation Team will be responsible for evaluating the submitted RFT responses, including:
 - a. perform a detailed examination and evaluation of the submitted Responses against the Evaluation Criteria
 - b. evaluate and make recommendations on any alternative proposals or options which are part of a Response
 - c. ensure that quality assurance and probity is maintained
 - d. prepare an Evaluation Report for the consideration of the RFT Steering Committee.
11. The Evaluation Team is responsible for ensuring that the RFT process is open and transparent and that all actions by the Department are documented, defensible and substantiated in accordance with legislation and policy.
12. The proposed RFT Evaluation Team and its responsibilities are as follows:

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Chair	All roles of Member, plus: <ul style="list-style-type: none"> • Management of Evaluation Team in accordance with Probity and Evaluation Plan • Responsible for ensuring the development of the RFT Evaluation Report • All communications with Steering Committee. 	s22(1)(a)(ii) - Director, Service Centre Support

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Deputy Chair	All roles of a member, plus: <ul style="list-style-type: none"> Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required. 	s22(1)(a)(ii) - Manager, Sydney Service Centre
Member	Individually scoring and assessing risk of all responses against all criteria, while committee members bring different focus areas, each member reviews each response entirely to allow responses to be assessed in their totality. Collectively developing Short Lists.	s22(1)(a)(ii) - Sydney Service Centre Team Leader s22(1)(a)(ii) - Solution Architecture <u>TBA</u> (Two resources to evaluate financial aspects of responses – currently being sourced)
Specialist Advisors to be called upon when required by the Evaluation Team		
RFT Process Support	Support and advice on the RFT process as required by the Evaluation Team.	s22(1)(a)(ii) - Sourcing and Vendor Management
Legal and Probity	Support and advice on legal issues raised by any responses, and the probity of the evaluation process.	McGrathNicol – Corporate and Business Advisory Firm
Contract Management	Support and advice on potential contractual arrangements as required by the Evaluation Team.	s22(1)(a)(ii) – Director SDP Services Team
Systems Support	Support and advice on service centres' systems as required by the Evaluation Team.	s22(1)(a)(ii) - Director Digital Client Enquiry Support
Architecture	Support and advice on the technology and architectural risks of any response as required by the Evaluation Team.	s22(1)(a)(ii) - Director Technology Architecture, Strategy Architecture and Innovation Branch (to be confirmed)
Business Requirements	Support and advice on Departmental business requirements as required by the Evaluation Team	s22(1)(a)(ii) – Senior Business Analyst, Service Centre Support s22(1)(a)(ii) – Assistant Director, Service Centre Support s22(1)(a)(ii) CMO Ottawa s22(1)(a)(ii) CMO London

Role	Role Requirements	Proposed Resource/ Membership (CSMB unless otherwise noted)
Dependent Projects	Support and advice on dependent projects as required by the Evaluation Team	s22(1)(a)(ii) , Director, Web Services and Correspondence s22(1)(a)(ii) Director, Client Service Transformation s22(1)(a)(ii) , Director, Visa & Citizenship Helpdesks s22(1)(a)(ii) , Superintendent, National Border Programme
Financial Capacity & Quality	Provide advice on the financial viability of selected respondents	KPMG
RFT Evaluation Team and RFT Steering Committee Administrative Support		
Administrative Support	Administrative support including logistically arrangements, record management, coordination of questions back to Respondents, filing of Confidentiality and Probity Declarations.	s22(1)(a)(ii) s22(1)(a)(ii) – All of Service Centre Support Section

Proposed RFT Steering Committee Responsibilities and Membership

13. The RFT Steering Committee will provide oversight of the RFT process, including:
- reviewing the draft Evaluation Report
 - providing responses to the Evaluation Team when necessary, including providing its comments and amendments regarding the draft Evaluation Report
 - making a recommendation to the Delegate regarding proposed next steps to be taken in the procurement process.
14. The proposed RFT Steering Committee membership and responsibilities are as follows:

Role	Role Requirements	Proposed Resource/Membership
Chair	Ensure the RFT process is defensible. Identify, arrange and monitor resources to facilitate the Evaluation Process. Provide regular progress reports to the Delegate and summary reports as required. Ensure conflict of interest and probity issues are identified and addressed.	Tara Cavanagh – A/g First Assistant Secretary, Digital Transformation and Channels Division
Deputy Chair	Assisting the Chair where necessary, progressing activities in the Chair's absence and having a casting vote in the absence of the Chair if required.	Renelle Forster - Assistant Secretary, Channel Management Branch

Is this a high risk / high value procurement?

Members	<p>Review the draft Evaluation Report and provide responses to the Evaluation Team when necessary providing comments and amendments regarding the draft Evaluation Report.</p> <p>s22(1)(a)(ii)</p> <p><i>Discuss with - need to get meetings into calendar now</i></p>	<p>s22(1)(a)(ii) - A/g Assistant Secretary, Visa Reform</p> <p>Anne Leo - AS, Workforce Management</p> <p>Duane Stokes - AS, Procurement & Panel Management</p> <p>OR</p> <p>Ian Laverock - AS, Procurement & Contracts</p> <p>s22(1)(a)(ii) - a/g AS, Strategy Architecture & Innovation</p> <p>Judith O'Neill - AS, Temporary Visa Programme</p> <p>Jim Williams - AC, Border Management</p> <p>Steven Groves - Chief Finance Officer</p> <p>Lisa-Ann Howgego - AS, Audit & Assurance</p> <p>Alicia Wright - AS, Commercial & Employment Law</p>
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Final Version of the Procurement Plan and Evaluation and Probity Plan

15. A final version of the Procurement Plan, is at **Attachment B**.
16. The Evaluation and Probity Plan is at **Attachment C**. The Plan will require the signatures of RFT Evaluation Team and RFT Steering Committee members before (Wednesday 19 July).

Consultation

17. The Secretary and Commissioner have been briefed on this approach.
18. Relevant staff within your work areas have been consulted as needed.
19. Close consultation has taken place with the Visa Reform Taskforce to ensure alignment with the Visa Reform Programme and consistency in benefits modelling.

20. Consultation with Major Capability Division (MCD) included engagement with the Sourcing and Vendor Management Branch to ascertain the correct market approach. Consultation has also been undertaken with MCD's Strategic Architecture and Innovations Branch to obtain an architectural and security review of the RFT.
21. A detailed Stakeholder Engagement and Communication Plan has been developed, which clearly articulates the approach to engage key stakeholder groups such as the Sydney Service Centre (SSC), overseas Service Centres and the CPSU and has been developed in consultation with People Division, who advised that the plan is consistent with Enterprise Agreement requirements for staff and representative consultation. As far as we know there are no staff in the SSC, who attract the ACBPS enterprise agreement conditions.
22. SSC, Americas Service Centre and Europe Service Centre' staff consultation has been occurring since October 2016.
23. The Department of Foreign Affairs and Trade (DFAT) has been advised.

Recommendation

It is recommended that you:

- **note** key dates and activities for the RFT process.

Noted / Please Discuss

- **approve** the final version of the RFT to be placed on AusTender (Attachment A).

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Evaluation Team.

Approved / Not Approved / Please Discuss

- **approve** the proposed membership and responsibilities of the RFT Steering Committee.

Approved / Not Approved / Please Discuss

- **approve** the approve the final version of the Procurement Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

- **approve** the final version of the Evaluation and Probity Plan for Innovative Client Enquiry Services.

Approved / Not Approved / Please Discuss

s22(1)(a)(ii)

Director Service Centre Support Section

June 2017

s22(1)(a)(ii)

Tara Cavanagh

A/g FAS Digital Transformation and Channels

7 June 2017

Contact Officer: s22(1)(a)(ii) Director Service Centre Support Section
Phone: s22(1)(a)(ii)

Attachments

- Client Enquiry Services RFT
- Procurement Plan for Client Enquiry Services
- Evaluation and Probity Plan for Client Enquiry Services



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PROCUREMENT PLAN

To: Acting First Assistant Secretary, Digital Transformation and Channels Division

Through: Assistant Secretary, Sourcing and Vendor Management Branch ^{s22(1)(a)}_(ii)

CLIENT ENQUIRY SERVICES PROJECT – DIBP RFT 11/16 CLIENT ENQUIRY SERVICES PROCUREMENT PLAN

Timing

Approval of this procurement plan is required by 10.00am on 7 June 2017 to support an approach to market by 9 June 2017.

Purpose

1. The purpose of this minute is to seek:
 - a. Your **approval** as the PGPAAs23(3) goods and services delegate to approach a shortlist of suppliers that responded to the initial Request for Expressions of Interest (REOI) for the provision of Innovative Client Enquiry Services, ^{s22(1)(a)}_(ii)
 - b. Your **noting** that formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, if needed, will be sought following the evaluation of the proposal, but prior to entering into a formal arrangement.

Background

2. The Client Enquiry Services Project (CESP) is an approved initiative under the Digital Client Enquiry Enablement (DCEE) Programme (formerly known as the Service and Support Integration Programme), operating within the Channel Management Branch (CMB) of the Visa Delivery Transformation Division. The DCEE Programme is tasked to implement initiatives to enhance the Department's channel management and digital strategies. The CESP is seeking to identify potential business improvement opportunities and solutions that will allow the Department to:
 - a. Achieve and maintain an overall movement of clients from high-cost in-person channels to lower-cost self-service digital channels;
 - b. ^{s47C}
 - c. Achieve an overall improvement of Client Service Levels to meet industry standards and benchmarks.

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3. The Department of Immigration and Border Protection (DIBP) sought expressions of interest for the provision of innovative solutions and products to enhance DIBP's Client Enquiry Services, particularly its Service Centres, through an open market REOI process. You signed the REOI Evaluation Report on 24 January 2017.

Issues

4. A number of issues have been identified regarding the Request for Tender (RFT), including:
- a. Adverse reaction from Staff and Unions may present at any time during the procurement process. This may impact the Department's reputation if this is broadcast by the media.
 - b. The timeline for implementation is aggressive and has minimal contingency within it, therefore any delays in the process are likely to impact the indicative dates.

Method of Procurement

5. A multi-stage procurement process is being undertaken. Following the successful completion of Stage 1 (the REOI process), this procurement plan is for Stage 2 and is a Prequalified Tender method of procurement.
6. The stages, decision points and indicative timeframe for the whole procurement process is outlined below:
- a. Stage 1: A REOI was released via Open Tender to form the first stage of a multi-stage procurement. Respondents to the REOI were required to demonstrate their capability and capacity to provide the required services and products. The Department evaluated the responses in accordance with an approved Evaluation and Probity Plan (EPP), and you signed the subsequent REOI Evaluation Report on 24 January 2017.
 - b. Stage 2 (the subject of this Procurement Plan): DIBP will utilise the Service Centre Services short-list developed through Stage 1 to undertake an RFT process utilising a Prequalified Tender method of procurement.
 - c. The indicative timetable is as follows:

STAGE	ACTIVITY	INDICATIVE TIMETABLE
STAGE ONE	REOI Issued to Market	21 October 2016
	REOI Closed	2pm in Canberra, Australian Capital Territory on 17 November 2016
	Evaluation Report Signed	24 January 2017
STAGE TWO	Issue RFT to Short Listed Respondents	16 June 2017
	Conduct Industry Brief	20 June 2017
	RFT Closing Time	2pm in Canberra, Australian Capital Territory on 20 July 2017
	Complete RFT Evaluations and Report	25 August 2017
	Complete Negotiations/Execute Contract	17 November 2017
	Commence Transition	18 November 2017
	Full Service Provision	29 June 2018

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For Official Use Only**Service Requirements**

7. The Department is seeking Tenders from the Stage 1 short-listed Respondents for the provision of contemporary best practice client enquiry services. The core area of scope is servicing telephone and email enquiries as currently provided by the Department's onshore and offshore Service Centres.
8. The Department is also seeking the implementation of models that may better meet the Department's objectives for its Client Enquiry Services across its other digital channels such as Social Media and Web Chat.
9. The scope of this RFT **does not** initially include:
 - a. Answering enquiries from any location other than the service centres;
 - b. Data or telephony carriage into the Department;
 - c. Providing migration advice to clients;
 - d. Answering enquiries requiring policy determinations, casework at overseas posts or high priority cases;
 - e. Visa, citizenship or trade permit processing services;
 - f. Managing the core applications that maintain the status of visa, citizenship or trade permit applications; or
 - g. Facilitating security clearances (through AGSVA) and ESCs to staff with access to visa, citizenship or trade permit applications.

s22
(1)(a)

10. s22(1)(a)(ii)

11.

12. s47C

Evaluation Criteria

13. The detailed evaluation criteria are currently being developed, however the responses will be broadly be assessed against the following evaluation criteria:
 - a. Respondent's technical capability against the business requirements;
 - b. Respondent's approach to the implementation of the Client Enquiry Services;
 - c. Respondent's capacity and organisational capability to provide the services;
 - d. Respondent's ability to identify and implement continuous improvement;
 - e. Respondent's financial and commercial viability;
 - f. Risk; and
 - g. Price.
14. A detailed Evaluation and Probity Plan (EPP) has been developed in parallel with this Procurement Plan. The EPP details the evaluation methodology and approach.

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For Official Use Only**Probity Plan**

15. Due to the complex nature of the procurement, a departmental probity adviser has been appointed and an EPP has been developed.

Value for Money

16. Value for money will be demonstrated through the utilisation of a competitive procurement process. The utilisation of a two stage procurement process supports the efficient, effective, economical and ethical use of public resources.
17. All compliant responses will be assessed against the approved evaluation criteria and compared with the financial estimate outlined above. The assessment will be recorded in the Evaluation Report.
18. This procurement will also consider the requirements for 'Value for money and broader benefits to the Australian economy' introduced in the Commonwealth Procurement Rules on 1 March 2017.

Risk Assessment

19. A risk assessment has been undertaken on this procurement and overall residual risk has been assessed as Medium. A copy of this is at Attachment A. All risks have been recorded and will be managed in the DTCD's Risk Register.

Consultation

20. The Procurement and Panel Management (PPM) Section has been consulted throughout the REOI process and in the preparation of this procurement plan. PPM has confirmed that the proposed method of procurement detailed above complies with the procurement requirements of the CPRs.
21. In addition the following individuals were consulted through the REOI and RFT development process:
 - a. The Hon Peter Dutton MP, Minister for Immigration and Border Protection
 - b. Michael Manthorpe, Dep Sec, Visa and Citizenship Services Group
 - c. Christine Dacey FAS, Visa Citizenship and Management
 - d. Peta Dunn, FAS, Visa Taskforce Reform
 - e. Murali Venugopal, FAS, People Division
 - f. Anne Leo, AS, Workforce Management
 - g. Mark Sawade, AS, Strategy Architecture and Innovation
 - h. Duane Stokes, AS, Sourcing and Vendor Management
 - i. Anthony Warnock, AS Visa, Citizenship and Digital Systems
 - j. Louise Smith, AS Channel Strategies and Management
 - k. Abi Bradshaw, Regional Director, Europe
 - l. s22(1)(a)(ii) Chief Migration Officer, London
 - m. Derek Bopping, Regional Director, Americas
 - n. s22(1)(a)(ii) Chief Migration Officer, Ottawa
 - o. s22(1)(a)(ii) Director, Visa Reform Taskforce
 - p. s22(1)(a)(ii) Director, Technology Strategy
 - q. s22(1)(a)(ii) a/g Director, Principal Legal Officer
 - r. s22(1)(a)(ii) Director, Procurement and Panel Management

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- s. s22(1)(a)(ii) Director, Employment Law and Litigation
- t. s22(1)(a)(ii), Group Finance Manager, DTCD
- u. s22(1)(a)(ii) Director DCEE
- v. s22(1)(a)(ii), Project Manager CESP
- w. s22(1)(a)(ii) Solution Architect, CESP
- x. s22(1)(a)(ii) Business Analyst, CESP

Recommendation

22. It is recommended that you as:

- a. A/FAS Digital Transformation and Channels, **approve** the approach to market as detailed in this procurement plan.

Approved / Not Approved

- b. A/FAS Digital Transformation and Channels, **note** that this is not a formal delegation and formal PGPAAs23(3) approval for the commitment to spend public money and forward commitment approval, as needed, will be sought following the evaluation of the responses, but prior to entering into a formal arrangement.

Noted / Please Discuss

s22(1)(a)(ii)

Tara Cavanagh

Director Service Centre Support

Acting FAS Digital Transformation and Channels

6 June 2017

June 2017

Contact Officer: s22(1)(a)(ii)

Phone: s22(1)(a)(ii)

Attachments:

- A. Risk Assessment

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ATTACHMENT A - RISK ASSESSMENT

Likelihood Scales			Likelihood	DIBP Risk Matrix					
CHANCE Qualitative assessment of likelihood	FREQUENCY the rate at which something occurs or is repeated over a given a sample rate	PROBABILITY a statistical or actuarial assessment of likelihood		Risk Matrix	CONSEQUENCE				
					Insignificant	Minor	Moderate	Major	Severe
The event and its consequences are expected to occur in most circumstances / has occurred in Department in the last year	Has occurred 9 or 10 times in the past 10 years in this organisation or circumstances are in train that will almost certainly cause it to happen	>95%		Almost Certain	Low	Medium	High	Extreme	Extreme
The event and its consequences will probably occur in most circumstances / has occurred in Department in the past	Has occurred more than 7 times over 10 years in this organization or in other similar organizations or circumstances have such that it is likely to happen in the next few years	>65%		Likely	Low	Medium	Medium	High	Extreme
The event and its consequences might occur at some time in most circumstances / has occurred at least once in the Department	Has occurred in this organization more than 3 times in the past 10 years or occurs regularly in similar organizations or is considered to have a reasonable likelihood of occurring in the next few years	>35%		Possible	Low	Low	Medium	High	High
The event and its consequences is not expected to occur in most circumstances / has not occurred in the Department but has occurred in other government entities	Has occurred 2 or 3 times over 10 years in this organization or similar organizations	<35%		Unlikely	Low	Low	Low	Medium	High
The event and its consequences will only occur in exceptional circumstances / is possible, but is not known to have occurred in the past	Has occurred or can reasonably be considered to occur only a few times in 100 years.	<5%	Rare	Low	Low	Low	Medium	Medium	

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Item	Risk	Cause	Likelihood	Consequence	Mitigation	(Final) Risk Level
1.	Sydney Service Centre's (SSC's) current service levels are not maintained	SSC Staff react negatively to the RFT and decide to leave their jobs earlier than desired which impacts morale and performance of remaining staff as well as increasing workloads on individuals.	Likely	Major	A staff assistance package will be considered to assist in retention of staff. Also, a Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	High
2.	Staff and Industrial consultation (engagement) process affects/delays RFT release and/or approvals	DIBP staff and/or CPSU negatively react to RFT messaging and create unrest and threaten industrial action	Possible	Minor	A Stakeholder Engagement and Communications Plan has been executed which clearly articulates the communication channel; timeframe; audience; objectives; messages; individuals responsible for the engagement and or delivery of communication products and status.	Low
3.	Responses to RFT are poor	The RFT does not clearly articulate what the Department is seeking	Possible	Minor	Information from Stage 1 of the procurement process will be used to refine the requirements for the RFT.	Low
4.	The RFT lacks detail that industry may require to provide sufficiently detailed responses.	Too many options constrain the ability for the Department to produce a detailed set of requirements to be responded to.	Likely	Moderate	The options will be socialised with various higher level stakeholders for a decision thus allowing refinement of a single requirements set for the RFT.	Low
5.	There is insufficient time to complete all activities associated with the RFT	Delays throughout the procurement process impact implementation timeframes.	Likely	Moderate	Executive sponsorship and engagement. Detailed and managed project plans.	Medium

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s22(1)(a)(ii)

From: s22(1)(a)(ii)
Sent: Friday, 28 July 2017 1:00 PM
To: s22(1)(a)(ii)
Cc: s47E(d) s22(1)(a)(ii)
Subject: 1700623 - CES Procurement - 'Strategic only' or 'Strategic and HRHV' [DLM=For-Official-Use-Only]

For-Official-Use-Only

Hi s22(1)(a)(ii)

Please see below the decision in relation to the governance arrangements for Client Enquiries procurement. The CFO have agreed that:

- this procurement is HRHV; and
- it will have its own steering committee rather than be subject to the steering committee set up for other visa reform procurements.

Regards

s22(1)(a)(ii)

s22(1)(a)(ii)

Account Manager
 Policy Group, and
 Visa and Citizenship Group
 Procurement and Contracts Branch
 Finance Division I Corporate Group
 Department of Immigration and Border Protection
 P: s22(1)(a)(ii)
 E: s22(1)(a)(ii)

For-Official-Use-Only

From: Ian LAVEROCK
Sent: Friday, 28 July 2017 12:34 PM
To: s22(1)(a)(ii)
Cc: s22(1)(a)(ii)
Subject: RE: CES Procurement - 'Strategic only' or 'Strategic and HRHV' [DLM=For-Official-Use-Only]

For-Official-Use-Only

s22(1)(a)(ii)

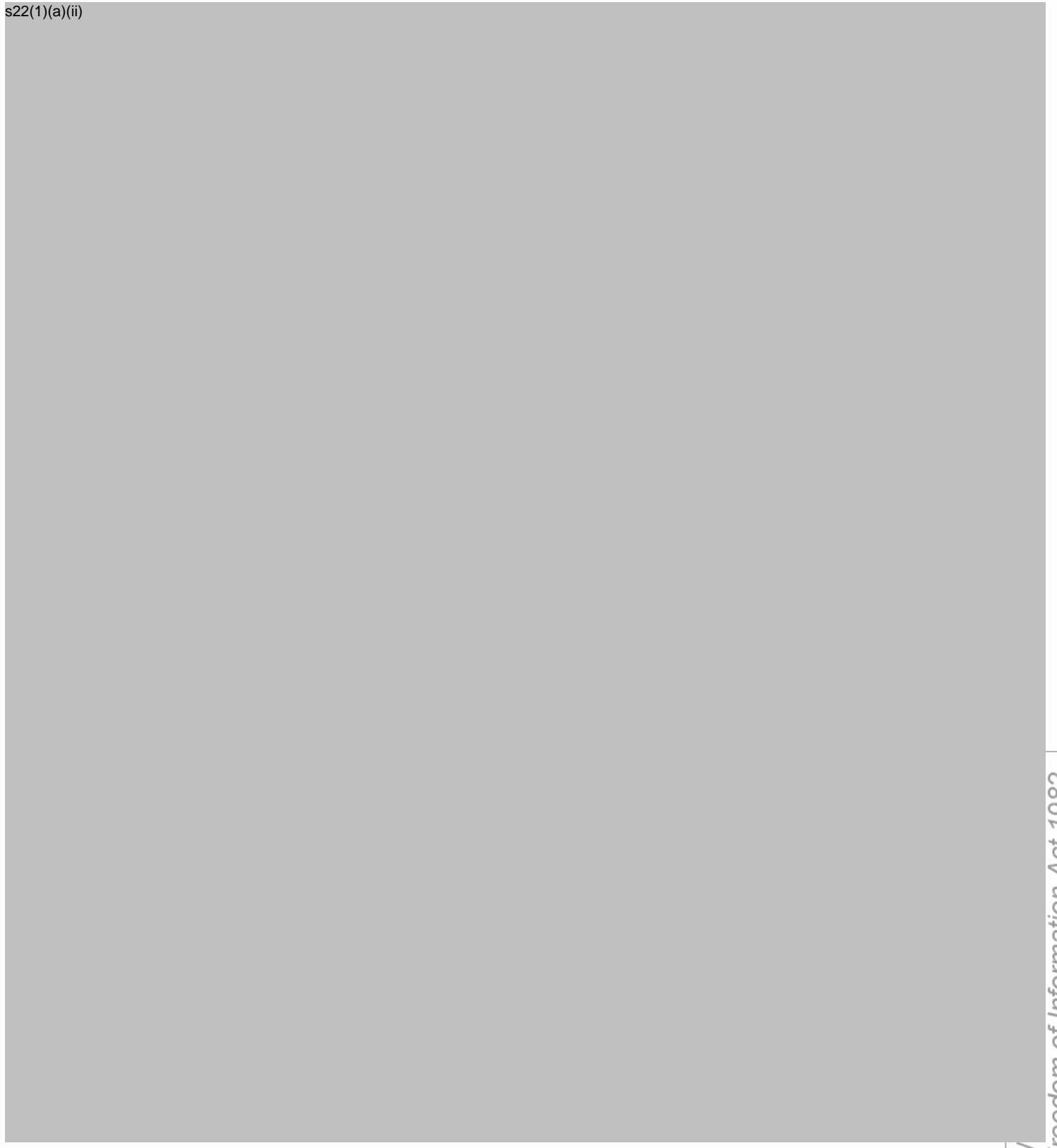
s22(1)(a)(ii)

I have discussed briefly with the CFO and we agree that CES should be HRHV. It will have its own SC and we will need to make the necessary assessments to support the CFO & CAE as this procurement develops.

IL

Ian Laverock
Assistant Secretary
Procurement and Contracts Branch
Corporate Support Division
Department of Immigration and Border Protection
P: s22(1)(a)(ii) M: s22(1)(a)(ii)
Email: s22(1)(a)(ii)

s22(1)(a)(ii)





Australian Government
Department of Immigration
and Border Protection

Client Enquiry Services Steering Committee Terms of Reference

27 JULY 2017

TRIM Ref: ADD2017/2129976

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Client Enquiry Services (CES) Steering Committee – Terms of Reference

1 Role

The purpose of the CES Steering Committee (the Steering Committee) is to provide governance and oversight to the Client Enquiry Services procurement, and ensure the delivery of project outputs and the achievement of project outcomes in a timely manner.

2 Authority

The Steering Committee was established by the First Assistant Secretary, Digital Transformation and Channels Division on 19 July 2017 who, as at that date was the delegate for this procurement. The Steering Committee is directly accountable to the Deputy Secretary, Visa & Citizenship Services Group who, as of 25 July 2017, is the delegate for this procurement.

The Chair of the Steering Committee is authorised to establish lower-tier governance bodies such as a Working Group to provide advice and make recommendations, but will not delegate its decision-making-authority.

3 Responsibilities

The primary responsibilities of the Steering Committee are to:

- support the Chair and members in performing their role by contributing to discussion and the provision of advice and input;
- advise and support the delegate to make decisions through the course of the procurement process by reviewing and endorsing recommendations made through the course of the procurement process. At a minimum, the Steering Committee will review and endorse the Tender Evaluation Report, Contract Negotiation Plan, and Contract Negotiation Report;
- consider the potential risks and issues of any new arrangement;
- provide guidance to the Evaluation Committee when required;
- foster collaboration, and remove obstacles to achieving the procurement objectives;
- maintain at all times the focus on the agreed scope, outcomes and benefits of the procurement;
- monitor and manage the factors outside the Steering Committee's control that are critical to it achieving success; and
- comply with the probity obligations, including declaration of conflict of interest, as specified in the Evaluation and Probity Plan for this procurement.

The decision rights for all aspects of the procurement will remain with the delegate.

Note: Due to the implementation date of the Steering Committee in the procurement process, the Steering Committee will not endorse the Evaluation and Procurement Plan, Statement of Requirement or Request for Tender documents. These documents have been endorsed by the delegate relevant at the time.

4 Membership

The membership of the CES Steering Committee is:

- First Assistant Secretary Digital Transformation and Channels (Chair)
- Assistant Secretary Channel Management Branch (Deputy Chair)
- Chief Finance Officer
- Assistant Secretary Procurement and Contracts Branch
- Assistant Secretary, Strategy Architecture and Innovation Branch
- First Assistant Secretary Legal Division (Advisor)
- First Assistant Secretary Integrity, Security and Assurance Division (Observer)

Subject matter experts (SMEs) and further advisors (non-Members) may be invited by the Chair to provide specialist advice or subject matter expertise to support the Steering Committee in consideration of a particular matter. Members will advise the Secretariat should they wish to invite non-Members for a particular agenda item(s). The Secretariat will advise the Chair prior to the meeting.

5 Role of the Chair

The Steering Committee will be convened by the First Assistant Secretary, Digital Transformation and Channels Division.

The role of the Chair is to:

- facilitate open and robust discussion;
- draw knowledge and expertise of each member to contribute to achieving project success
- manage any conflict that may arise, including any member attempting to unfairly override the views of another and/or unduly influence the process in a particular direction
- conduct each meeting in accordance with the agenda and organisational requirements to enable participation, discussion, problem solving and resolution of issues;
- approve agenda items sponsored by the project team; and
- if unable to attend a meeting, nominate an appropriate replacement to chair the meeting.

6 Role of the Members

The role of the Members is to:

- attend all scheduled meetings, and where unable, nominate a proxy in accordance with Item 8, paragraph 2;
- actively participate in meetings;
- contribute their knowledge and expertise to achieving the project's success while respecting the other members' right to their knowledge and expertise
- wholeheartedly support the Steering Committee within and outside the group;
- share all communications and information across all members;
- make timely decisions and take action so as to not hold up the procurement project; and

- notify members of the Steering Committee, as soon as practicable, of any matter that arises which may be deemed to affect the Steering Committee and/or the procurement/project.

7 Role of the Secretariat and Administration

The Service Centre Support section will be responsible for secretariat, administration and policy advice services including:

- provision of agendas to the Chair (or proxy) for approval
- collating and distributing agendas, submissions, and policy advice to members (including timeframes)
- reviewing submissions prior to distribution
- provision of policy advice
- responsibility for recording minutes and/or action items.

8 Quorum

A meeting quorum will be three (3) members of the Steering Committee.

Subject to the agreement of the Chair, a member may send a proxy if they are unable to attend a meeting and the proxy has the authority to make Steering Committee decisions on behalf of the member. This is based on the principle that good governance requires continuity and as such members must maintain consistent attendance at meetings and keep abreast of committee activities.

9 Meetings

During the evaluation period, the Steering Committee will meet weekly. Other than during the evaluation period, the Steering Committee will meet monthly. Meetings will be held on the scheduled dates as arranged by the Secretariat, but may be moved as directed by the Chair in consultation with the other Steering Committee members. If required, members will also consider issues out of session.

Decisions are made by consensus (i.e. members are satisfied with the decision even though it may not be their first choice). If not possible, the Chair makes final decision.

10 Submissions and Consultation

Submissions must be provided to the Secretariat no later than five (5) working days prior to the scheduled meeting. Late submissions will not be considered (ad hoc submissions may be accepted at the discretion of the Chair).

Submissions must include clear recommendations and the proposed next steps. Wide and thorough consultation across all relevant internal and external stakeholders must be undertaken prior to the submission of papers, with resulting risks and sensitivities clearly documented.

Submissions must clearly articulate any risks, financial considerations, opportunities, deficiencies and challenges and describe any disparate views.

11 Escalation

In situations where members agree that a matter being considered by the Steering Committee requires escalation to facilitate resolution, the matter will be referred to Deputy Secretary Visa and Citizenship Services Group.

12 Review of the Terms of Reference

Service Centre Support section will undertake a review of the Terms of Reference as required.

Any amendments to the Terms of Reference must be submitted to the Steering Committee for endorsement before they come into effect.

13 Document Control

Revision History

Version	Date	Author	Details	TRIM Reference
0.1	20/7/2017	s22(1)(a)(ii)	First Draft	
0.1	21/7/2017	s22(1)(a)(ii)	Clearance	
0.2	26/7/2017	s22(1)(a)(ii)	Update delegate and minor editing	
1.1	21/8/2017	s22(1)(a)(ii)	Update SC Chair and approval table edits	

Document Endorsement and Approvals

Version	Date	Authority	Name	TRIM Reference
1.0	8/8/2017	Chair	T. Cavanagh	ADD2017/2283485

General document information

Published date:	
Availability:	TRIM Ref: ADD2017/2129976
Purpose:	
Owner:	
Contact:	

FOI Doc #6 – Attachment 15

has been deleted as s.22(1)(a)(ii) of the
FOI Act applies

Schedule	Client Enquiry Services Project 1 July 2016 - 30 June 2017						Client Enquiry Services Implementation Project RFT Evaluation and Closure Stage 1 July 2017 - Anticipated 10 November 2017 (Contract Execution)																								Transition Stage 13 November 2017 - 30 June 2018				Transformation Stage 1 July 2018 - 30 June 2019																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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Transition-In Service Provider

s47C

(s22(1)(a)(ii))

~~**BUDGET IN CONFIDENCE**~~

Title:	Visa Reform
From:	Canberra
Date:	9 May 2017
To:	DIBP Regional Director: Americas (Washington), Europe (London), North Asia (Beijing), Pacific (Brisbane), Africa (Pretoria), South Asia (New Delhi), Mekong (Bangkok), Middle East & Africa (Dubai), South East Asia (Jakarta), Minister Counsellor (Geneva) and Regional Managers Pacific (Suva) and Africa (Pretoria), ABF Commander Minister Counsellor (Bangkok)
Cc:	
Prepared by:	(s22(1)(a)(ii)), A/g Assistant Secretary, Visa Reform Taskforce
Approved by:	Tara Cavanagh, A/g First Assistant Secretary, Digital Transformation and Channels Division
References:	

Topics: (Select one or more from the following options)**IMMIGRATION & ENTRY CONTROL:** (s22(1)(a)(ii))**Summary of cable:**

As part of the 2017 Budget announcements, (s22(1)(a)(ii))

(s22(1)(a)(ii))

(s22(1)(a)(ii))

(s22(1)(a)(ii))

(s22(1)(a)(ii))

(s22(1)(a)(ii))

The Government will also announce the outsourcing of client enquiry services.

~~**PROTECTED**~~~~**Sensitive: Budget in Confidence**~~~~**Embargoed until 7.30pm 9 May 2017**~~

In the 2017 Budget (s22(1)(a)(ii))

(s22(1)(a)(ii)) The Government will also announce the outsourcing of the Department's Service Centres in Sydney, London and Ottawa.

(s22(1)(a)(ii))

s22(1)(a)(ii)

Outsourcing Client Enquiry Services

11. The decision to outsource client enquiry services currently delivered by our Sydney, London and Ottawa Service Centres will be a phased transition to an external Service Provider that will take place over the next 12 – 18 months.
12. DIBP Regional Directors Europe and Americas have been engaged and provided with information to assist them in engaging with service centre staff.
13. Tara Cavanagh, A/g FAS Digital Transformation and Channels Division will brief Regional Directors as part of the regular teleconference on Wednesday 10 May 2017. You will also receive the Managers' Toolkit on Wednesday 10 May 2017 to assist you in engaging with your staff.

14. We will also provide you with additional talking points in due course to assist with your engagement with interlocutors.

~~PROTECTED Sensitive~~

Exported by s22(1)(a)(ii) - 11:53 AM Friday, 1 November 2019

s22(1)(a)(ii)

Title: Outsourcing of Client Enquiry Services**MRN:** s22(1)(a)(ii) 24/05/2017 04:06:32 PM**To:** FAF Posts**Cc:****From:** Canberra (s22(1)(a)(ii))**From File:****EDRMS****Files:****References:** s22(1)(a)(ii)**Response:** Routine, Information Only~~PROTECTED Sensitive~~

Summary

In the 2017 Budget, the Government announced the outsourcing of DIBP's Service Centres in Sydney, London and Ottawa. It is expected that the phased transition of client enquiry services to an external Service Provider will take 12–18 months to implement. DIBP appreciates the need to manage this change carefully to ensure there are no unintended impacts on overseas missions and will work closely with DFAT to manage transitional staffing issues in line with LES terms and conditions.

2. In the 2017 Budget, the Government announced the outsourcing of DIBP's Service Centres in Sydney, London and Ottawa.
3. The London and Ottawa Service Centres, which service clients located in Europe and the Americas respectively, handle approximately 300,000 enquiries a year and offer services in a limited range of languages.
4. The majority of offshore enquiries (approximately 1,200,000 per year) are handled under separate arrangements through a contract with our Service Delivery Partners (SDPs). The handling of offshore enquiries via SDPs is unaffected by the decision to close the London and Ottawa service centres.
5. The outsourcing of these services is a matter Government asked DIBP to investigate two years ago and has been the subject of extensive market research and cost-benefit analysis. It is expected to lead to an improvement in enquiry services for visa and citizenship clients, including faster response times and an expanded language offering. The measure also includes investment in DIBP's website and ImmiAccount services, to ensure a higher level of self-service is enabled.
6. It is expected that the phased transition of client enquiry services to an external Service Provider will take 12–18 months to implement. Transition details and specific timing will be known when the preferred supplier is engaged, expected to occur late 2017.
7. Importantly, there will be no changes to staff roles in the short term. DIBP regions in Europe and the Americas are funded in the 2017–18 year to continue the provision of services until transition to the service provider is complete.
8. The Department will manage the transition to ensure that we manage staff levels carefully and monitor any attrition to prevent degradation of service. A range of practical measures to mitigate service degradation are currently under active consideration by DIBP in consultation with RD Europe and RD Americas who will be able to keep Posts updated locally. Measures that are currently the subject of analysis include: utilising existing service delivery partner arrangements to manage call volumes; engaging non-ongoing local staff; working with the incoming service provider to supplement staffing numbers, and possible use of limited financial incentives for key staff to remain until transition in of the new service provider is complete.
9. DIBP will work closely with DFAT Canberra and relevant posts to manage LES staffing issues associated with the service centre transitions, in accordance with LES Terms and Conditions.

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Exported by s22(1)(a)(ii) - 11:53 AM Friday, 1 November 2019

s22(1)(a)(ii)

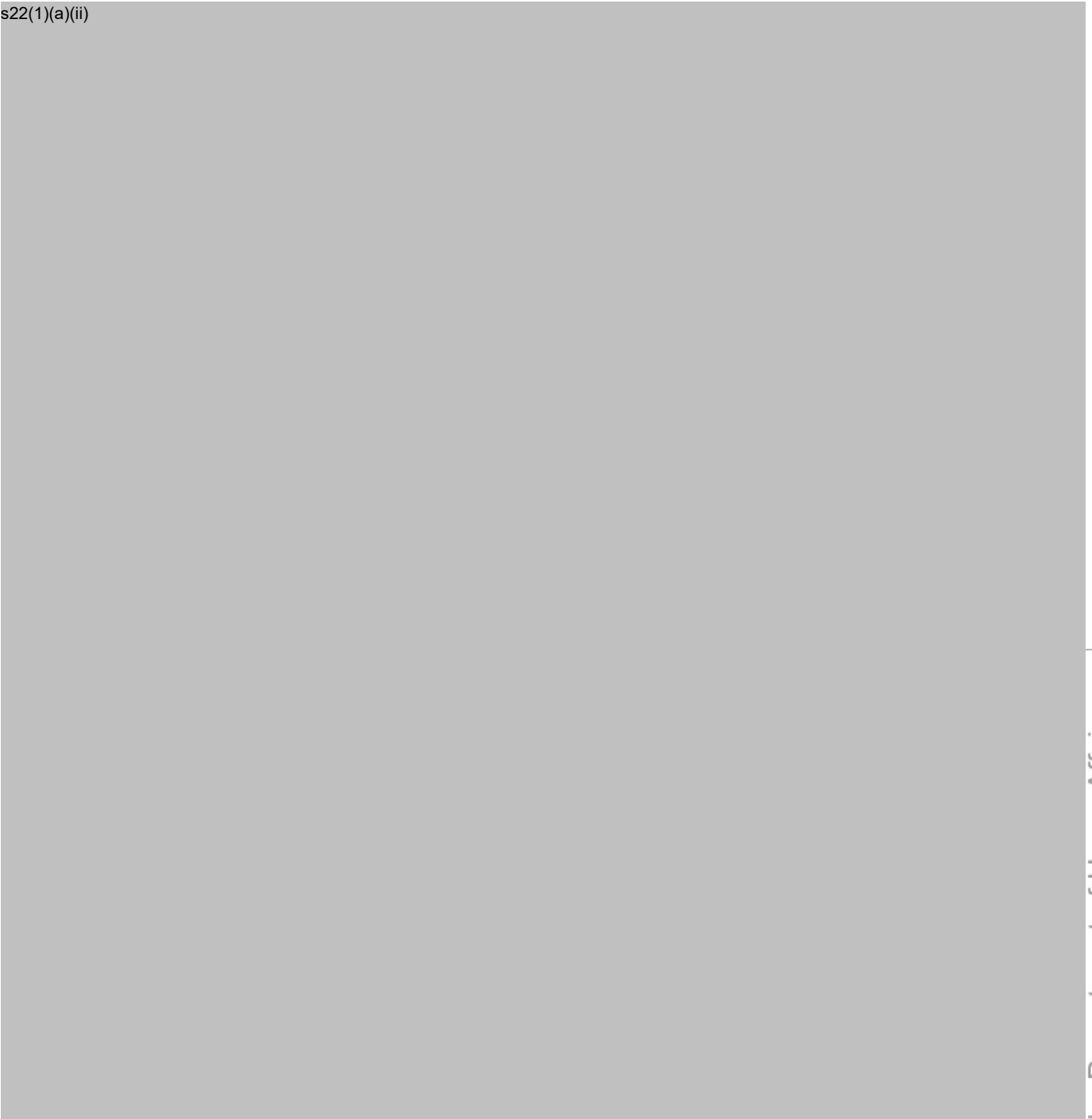
10. DIBP appreciates the need to manage this change carefully to ensure there are no unintended impacts on overseas missions. Reducing direct client contact with DIBP offices and DFAT missions globally remains at the core of our longer term strategy for managing growing volumes of visa applicants as efficiently as possible.

text ends

Sent by: s22(1)(a)(ii) s
Prepared by: s22(1)(a)(ii)
Approved by: Tara Cavanagh
Topics: IMMIGRATION & ENTRY CONTROL/General

▼ New Distribution

s22(1)(a)(ii)


~~PROTECTED Sensitive~~

~~PROTECTED Sensitive~~

Exported by s22(1)(a)(ii) - 11:53 AM Friday, 1 November 2019

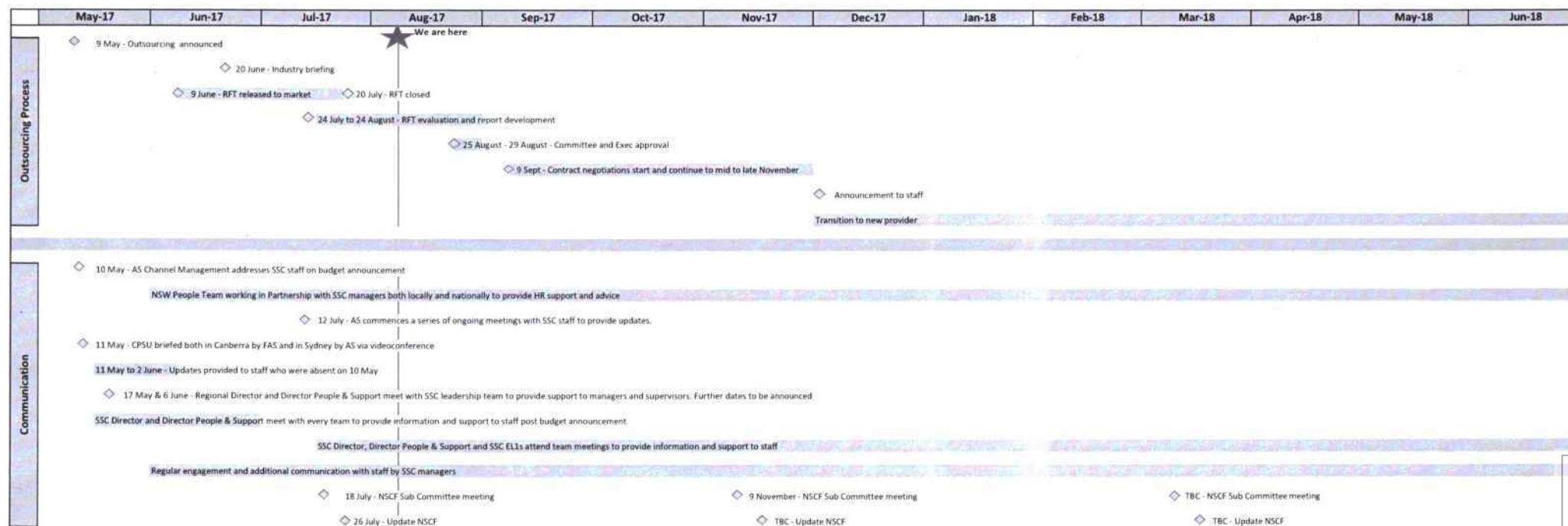
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~~PROTECTED Sensitive~~

Outsourcing of Services - Sydney Service Centre 2017 - 2018



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**Department of Immigration and Border Protection
Budget Estimates – May 2017**

BACK POCKET BRIEF**Approach to Market for Client Enquiry Services****Key Talking Points**

- As part of the Budget, the Government announced the outsourcing of the Sydney, Americas and Europe Service Centres and the contracting out of services to an external service provider to deliver client enquiry services.
- The first stage of this process – a Request for Expression of Interest (REOI), which is a non-binding approach to gain market information and down-select respondents for participation in the second stage of the market approach – was completed early 2017.
- Successful REOI respondents will be invited to submit a response to the second stage approach to market - Request for Tender (RFT).
- It is anticipated that the RFT will be released to market before the end of financial year 2016-17.
- Evaluation of responses, contract negotiation and signing of the successful service provider is expected to be concluded by the end of 2017.
- Transition to the successful service provider is anticipated to be complete within the next 12-18 months.

Core Objectives

- The Department's core objectives are to:
 - meet client enquiry demand and enforce service standards
 - achieve a channel shift from high-cost non-digital channels to low-cost digital channels.

'If Asked'**RFT – Outsourcing*****Why are you outsourcing the Service Centres?***

- To meet the current and future client enquiry demand which can best be serviced by a market provider whose core business is the provision of client enquiry services in the most efficient and cost effective manner.

Is this effectively a cost saving measure?

- While cost saving is a component, the key driver is to meet the increasing demand for client enquiry services. There are a number of external service providers that specialise in the provision of call centre services, which are not our core business. Our expertise lies with the processing of visa applications, and as visa processing decision makers. Moving enquiry handling services to an external service provider will enable the Department to focus the expertise and skills of staff onto higher value work including visa processing and decision making.

Is this an attempt at offshoring?

- No, these client enquiry services will be handled onshore in Australia, including those currently handled by the Department's Service Centres in Ottawa and London.

How do you know that the outsourcing will be more cost effective?

- Last year, the Department undertook market research through the REOI process that showed the market could deliver a higher grade of service in a more cost effective manner.

How do you know that the outsourcing will lead to a better service?

- Last year, the Department undertook market research through the REOI process which showed the market could deliver the industry best practice of 95 per cent of calls answered within 90 seconds.
- In comparison, our current target grade of service is to answer 85 per cent of calls in 10 minutes, with the actual grade of service being 65.78 per cent in 10 minutes (as at 30 April 2017).

What is the proposed contract length?

- Three years, with options to extend the contract for up to a further four years.

How will you protect the privacy of visa applicants' information if this work is outsourced?

- In compliance with Australian Government policy mandated under the Information Security Manual, the Department is required to review annually the security controls that the third party service provider has in place in order to protect DIBP client data. Examples of the security controls that are subject to review include:
 - compliance with International Organisation for Standardisation (ISO) Security Management Standards
 - compliance with the Australian Privacy Act
 - compliance with local Privacy Legislation
 - physical, IT and personnel security controls
 - secure transmission of client data between the service provider and DIBP
 - time-bound storage of client data after transmission from the service provider to DIBP.

How does the Department manage service provider integrity risk?

- The Agreements will outline specific Applicable Requirements that the service provider must adhere to, and these include compliance with laws such as the *Migration Act 1958* (Cth), *Privacy Act 1988* (Cth), *Crimes Act 1914* (Cth), *Freedom of Information Act 1982* (Cth), *Work Health and Safety Act 2011* (Cth) and the Australian Public Service Code of Conduct.

Will your RFT be limited to Australian companies?

- We are using a short list of companies identified through the REOI process which includes a combination of onshore and offshore incorporated companies.

Why would you include an offshore company if the services are to be delivered onshore?

- The RFT will clearly stipulate the services are to be provided onshore, however the Commonwealth Procurement Rules (CPRs) require that 'all potential suppliers to government must be treated equitably based on their commercial, legal, technical and financial abilities and not be discriminated against due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.'

s22(1)(a)(ii)

Will there be job losses or will the Department redeploy staff?

- For permanent ongoing staff, a formal voluntary redundancy is not currently planned. In accordance with the Australian Public Service redeployment principles, reductions will be managed primarily through natural attrition and placements within the region over the next 12-18 months. Redeployment placements will be carefully managed to ensure that services will continue to be delivered throughout the period of transition.
- For contractors and non-ongoing staff, each person will be considered on a case-by-case basis and further information will be provided to individual non-ongoing and contracted staff.

The Canberra Times reported that 250 people will lose their jobs as a consequence of the closing of the Department's client enquiry centres in Sydney, London and Ottawa. Is that true?

- This is not correct. The staff reduction for the Department announced in the budget includes the impact of a large number of measures, some of which were announced in Budget a number of years ago.

How many staff will be impacted by the closures?

- There will be no impact in the short term. It is expected that a phased transition of client enquiry services to an external service provider should be completed within the next 12 to 18 months.

s22(1)(a)(ii)

How will impacted staff be managed?

- The Department will not be offering voluntary redundancies, at this time.
- It is expected that the majority of reductions will be managed through natural attrition.
- In accordance with the Australian Public Service redeployment principles, the ongoing staff working at the SSC will be offered redeployment to an alternative role in the Department in NSW.
- For contractors and non-ongoing staff employed in the SSC, each person will be considered on a case-by-case basis.
- For locally employed staff (LES) affected in the Americas and Europe Service Centres, separations will be in accordance with the person's employment type terms and conditions of employment and local labour law, jointly managed by the Department of Foreign Affairs and Trade and the Department of Immigration and Border Protection.

Has the union been consulted?

- The Department met with the CPSU on Thursday, 11 May 2017. Consultations will occur according to the requirements of the Department's Enterprise Agreement and the Department will consult with staff and the CPSU throughout the implementation.

What support will affected staff be provided?

- The Department is committed to working with all impacted staff in the next 12-18 months to consider options. In addition, support may be provided through career coaches and services such as the Employee Assistance Programme.

REOI***What was the purpose of the REOI?***

- The REOI sought information and conducted market research into what innovative client enquiry services and products are available in the market. s22(1)(a)(ii)
- The REOI has assisted the Department to better understand what exists as contemporary best practice across client services, in order to deliver the highest-quality service to clients in an increasingly challenging environment.

Does this approach comply with the Government's Contestability Programme?

- Yes, this approach complies with the Government's Contestability Programme, which requires the Commonwealth public sector to constantly improve its performance and efficiency so it achieves better outcomes for the Australian community.

How did the Department determine who was successful?

Responses were assessed against a specified criteria in accordance with the approved evaluation plan and standard procurement practices. Those found suitable were selected based on their ability to provide an entire client enquiry servi

Responsible Officer	Contact Officer
Louise Smith Assistant Secretary Channel Management Branch Digital Transformation and Channels Division Ph: s22(1)(a)(ii) Mob: s22(1)(a)(ii)	s22(1)(a)(ii) Director, Service Centre Support Channel Management Branch Digital Transformation and Channels Division Ph: s22(1)(a)(ii) Mob: s22(1)(a)(ii)

**Department of Immigration and Border Protection
Supplementary Estimates – October 2017**

BACK POCKET BRIEF**Outsourcing of Service Centres****Key Talking Points**

- As part of the 2017-18 Federal Budget, the Government announced the outsourcing of services currently managed by the Sydney, Americas and Europe Service Centres to an external service provider.
- On 9 June 2017, the Department of Immigration and Border Protection (the Department) released the Request for Tender (RFT) for Client Enquiry Services to selected companies who had been shortlisted through a first stage market approach in late 2016.
- Evaluation of responses, contract negotiation and signing of the successful service provider is expected to be concluded by the end of 2017.
- Transition of client enquiry services to the successful Service Provider should be complete by 30 June 2018.
- Services will all be delivered from Australia.

Core Objectives

The Department's core objectives are to:

- improve client service levels to meet industry standards
- achieve a channel shift from high-cost non-digital channels to low-cost digital channels

'If Asked'***Why are you outsourcing the Service Centres?***

- To meet the current and future client enquiry demand which can best be serviced by a market provider whose core business is the provision of client enquiry services in the most efficient and cost effective manner.

Is this effectively a cost saving measure?

- While cost saving is a component, the key driver is to meet the increasing demand for client enquiry services. There are a number of external service providers that specialise in the provision of call centre services, which is not the Department's core business. Our expertise lies with the processing of visa applications, and as visa processing decision makers. Moving enquiry handling services to an external service provider will enable the Department to focus the expertise and skills of staff onto higher value work including visa processing and decision making.

Is this an attempt at offshoring?

- No, these client enquiry services will be handled onshore in Australia, including those currently handled by the Department's Service Centres in Ottawa and London.

How do you know that the outsourcing will be more cost effective?

- Last year, the Department undertook market research through the Request for Expressions of Interest (REOI) process that showed the market could deliver a higher grade of service in a more cost effective manner.

How do you know that the outsourcing will lead to a better service?

- Last year, the Department undertook market research through the REOI process which showed the market could deliver higher levels of service.

What is the proposed contract length?

- Three years, with options to extend the contract for up to a further four years.

How will you protect the privacy of visa applicants' information if this work is outsourced?

- In compliance with Australian Government policy mandated under the Information Security Manual, the Department is required to review annually the security controls that the third party service provider has in place in order to protect DIBP client data. Examples of the security controls that are subject to review include:
 - compliance with International Organisation for Standardisation (ISO) Security Management Standards
 - compliance with the Australian Privacy Act
 - physical, IT and personnel security controls
 - secure transmission of client data between the service provider and DIBP
 - time-bound storage of client data after transmission from the service provider to DIBP.

How does the Department manage service provider integrity risk?

- The relevant contract will outline specific Applicable Requirements that the service provider must adhere to, and these include compliance with laws such as the Migration Act 1958, Privacy Act 1988, Crimes Act 1914, Freedom of Information Act 1982, Work Health and Safety Act 2011 and the Australian Public Service Code of Conduct.

Was the RFT limited to Australian companies?

- No. We used a short list of companies identified through the REOI process which included a combination of local and international companies. As announced by the Minister on 9 May 2017, the service provider will deliver the services from an onshore location, including "bringing onshore work that is currently delivered overseas".

Why would you include an offshore company if the services are to be delivered onshore?

- The RFT will clearly stipulate the services are to be provided onshore, however the Commonwealth Procurement Rules require that 'all potential suppliers to government must be treated equitably based on their commercial, legal, technical and financial abilities and not be discriminated against due to their size, degree of foreign affiliation or ownership, location, or the origin of their goods and services.

s22(1)(a)(ii)

Will there be job losses or will the Department redeploy staff? How will impacted staff be managed?

- For ongoing staff reductions will be managed primarily through natural attrition and redeployment of staff within the organisation.
- A workforce plan has been developed for the Sydney Service Centre (SSC). Measures include:

Brief No. SE2017-BP-DTCD-01-SB17-001300

- giving priority to affected staff for redeployment opportunities within the Department
- consolidating some departmental administrative functions in Sydney which are expected to provide further opportunities for placement of SSC staff
- recruitment of standby non-ongoing staff to back fill vacancies in the SSC as permanent staff are redeployed, and
- reaching out to other agencies (Department of Human Services and Australian Tax Office) to explore possible opportunities they may have available, in the event that we are unable to redeploy every ongoing staff member within the Department.
- providing regular advice to staff of known vacancies across the Australian Public Service

What support will affected staff be provided?

- The Department is supporting impacted staff by providing regular updates to ensure staff have the latest information available to them regarding the RFT process and progress.
- We are further supporting staff by providing a set of FAQs (updated monthly) that provide answers to all questions raised by staff as well as providing additional information regarding the process.
- A dedicated mailbox has been set up for staff to raise any questions or concerns and receive a response.
- We are working with impacted staff within the Sydney Service Centre to consider redeployment options and supporting staff in line with the requirements of the Enterprise Agreement.
- Career coaches are engaging with staff at the Sydney Service Centre to discuss their career plans, identify opportunities for their future career paths and if requested will assist staff with the preparation of resumes.
- The SSC is delivering coaching and team management focussed activities to support and promote psychological safety and wellbeing of staff.
- If it becomes necessary, following the transition period, some staff may be placed in the allocation pool. However these staff will be considered for all vacancies in the Department at their substantive classification before any vacancies are advertised and filled.
- For locally employed staff (LES) affected in the Americas and Europe Service Centres, separations will be in accordance with the person's employment type terms and conditions of employment and local labour law, jointly managed by the Department of Foreign Affairs and Trade and the Department of Immigration and Border Protection.

Is staff attrition higher in the SSC compared to other APS contact centres?

- SSC Service Centre staff attrition is on par with APS contact centres and lower than commercially provided contact centres in Australia that average 30–45 per cent attrition.**
- The Department is actively engaging non-ongoing staff to fill positions on a temporary basis to enable the release of permanent staff to other positions across the Department.

** Exploring Call Centre Turnover Numbers, By s47F winter 2015 QATC

Has the union been consulted?

- The Department has proactively consulted the CPSU since the Government's announcement in May 2017.
- The Department initially met with the CPSU on Thursday 11 May 2017 to inform the CPSU of the announcement and discuss any immediate concerns. Since then the Department has re-established the National Staff Consultative Forum (NSCF) Service Centre Sub-committee where the Service Centre outsourcing is a standing agenda item. The NSCF Service Centre Sub Committee met on 9 March 2017 and most recently on 18 July 2017, which was followed by the


broader NSCF meetings on 25-25 July 2017 for further consultation with the CPSU. The next NSCF Service Centre Sub-committee is scheduled for 9 November 2017.

- Direct emails to the CPSU have also been sent informing them of key announcements, such as the release of the RFT.
- The Department will continue to consult with staff and the CPSU throughout the implementation in accordance with the requirements of the Department's Enterprise Agreement.

CPSU letter to the Minister and Secretary

- The Deputy National President of the CPSU, Rupert Evans, wrote to the Minister for Immigration and Border Protection, the Hon Peter Dutton MP on 3 October 2017 regarding the decision to outsource the Service Centres (**Attachment A**).
- The Deputy National President of the CPSU, Rupert Evans, wrote to the Secretary of the Department of Immigration and Border Protection, Michael Pezzullo on 6 October 2017 regarding the decision to outsource the Service Centres (**Attachment B**).
- In the letters, the CPSU raised a number of concerns, including the impact on jobs, privacy, data protection, national security and commercial interests of Australian companies.
- The Department responded to the letters on 19 October 2017 (**Attachment C**), assuring the CPSU that these matters had been considered and addressed, and that the Department was committed to continue working with the CPSU through the established formal consultation mechanisms.

s22(1)(a)(ii)



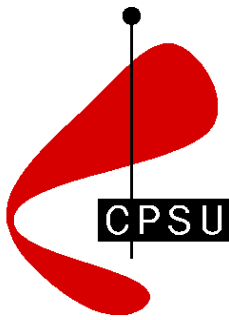
Brief No. SE2017-BP-DTCD-01-SB17-001300

s22(1)(a)(ii)

Attachments:

Attachment A – CPSU letter to the Minister
Attachement B – CPSU letter to the Minister
Attachment C – DIBP response to CPSU

Responsible Officer	Contact Officer
Renelle Forster Assistant Secretary Channel Management Branch Digital Transformation and Channels Division Ph: s22(1)(a)(ii) Mob: s22(1)(a)(ii)	s22(1)(a)(ii) Director, Service Centre Support Channel Management Branch Digital Transformation and Channels Division Ph: s22(1)(a)(ii) Mob: s22(1)(a)(ii)

**Community and Public Sector Union**Rupert Evans
Deputy National President

3 October 2017

The Hon Mr Peter Dutton MP
Minister for Immigration and Border Protection
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

by email: minister@border.gov.au

Dear Minister

RE: Outsourcing of Immigration Call Centres

I am writing on behalf of members of the CPSU from the Department of Immigration and Border Protection, and the concerned public, regarding the decision by the Federal Government to outsource the Sydney, London and Ottawa Service Centres of the Department of Immigration and Border Protection.

Since the decision was announced in the May 2017 Federal Budget, CPSU has been talking to members and the public about the potential ramifications of this decision and the impact it may have on jobs, privacy and data protection, the commercial business interests of Australian businesses and national security.

CPSU members are concerned that in addition to potential adverse impacts in the areas outlined above, the awarding of this work to a private sector company or multinational, will mean that the work will be performed by persons who do not have the oversight, professional standards, training, and accountability that the current Australian Public Service employees do.

The CPSU urges you to reconsider this decision as a matter of urgency. We would also like to meet with you to raise these and other concerns about the proposal.

To arrange an appointment or for any follow up information please contact our political coordinator s47F, via email at s47F or on s47F. If you prefer, I can be contacted directly on s47F.

We hope to hear from you shortly.

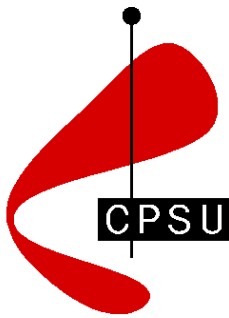
Yours sincerely

s47F

Rupert Evans
Deputy National President
Community and Public Sector Union

s47F

Rupert Evans | Deputy National President | CPSU | Phone: s47F | Fax: s47F |
Mobile: s47F | Website: www.cpsu.org.au | email: s47F



**Community and Public Sector
Union**

Rupert Evans
Deputy National President

6th October 2017

Mr Michael Pezzullo
Secretary
Department of Immigration and Border Protection
Chan St
Belconnen, ACT 2617
By email: s22(1)(a)(ii)
Cc: s22(1)(a)(ii)

Dear Secretary Pezzullo

RE: Outsourcing of Service Centres

I am writing to you on behalf of CPSU members regarding the decision of the Federal Government to outsource the Sydney, Ottawa, and London Service Centres.

Following the Federal Government's announcement in the 2017 budget the CPSU has met with affected members and met with representatives of the Department to represent member concerns and questions about the decision and the potential impact on jobs, timelines, and data integrity.

At this meeting it was stated that it was too early in the process to provide a timeline for the implementation of the decision. The Department also advised that it was not in a position to provide an answer to the CPSU's question about how the work performed in the Service Centres could be undertaken by the non-APS staff of a private firm given the need to access secure information and Departmental systems to carry out the work currently conducted by Service Centre staff.

Staff have been provided with generic materials since and request answers to the following questions:

1. Which suppliers were invited to tender?
2. When does the Department anticipate it will decide which supplier to grant a contract to? If this has already occurred when did this occur?
3. Which Departmental databases will the chosen provider have access to?
4. What measures are being put in place to maintain data integrity?

5. How does the Department intend to ensure the privacy and integrity of the personal data of clients utilising the Service Centre following outsourcing?
6. Given that service centre staff currently have access to the commercial in-confidence data of Australian businesses what measures have been put in place to ensure the integrity of such data? What consultation has been undertaken with Australian businesses who utilise the Service Centre regarding the proposed change in the delivery of this service and the management of their data?
7. What risk assessment process, if any, has been undertaken to ensure the privatisation of the Service Centres will not result in undermining the integrity of Australia's import, export, and migration processes and systems?
8. What integrity and accountability measures will employees of the chosen provider be subject to? How will these compare to the APS Code of Conduct and or the Public Service Act 1999?

We request a response to the above questions by close of business Friday 13th October.

Yours sincerely,

s47F

Rupert Evans
Deputy National President
Community and Public Sector Union

s47F



Australian Government
Department of Immigration
and Border Protection

Brief No. SE2017-BP-DTCD-01-SB17-001300

Ref No: MC17-018744

Mr Rupert Evans
Deputy National President
Community and Public Sector Union

s47F

Dear ^{Rupert}Mr Evans

Thank you for your correspondence of 3 October 2017 to the Minister for Immigration and Border Protection, the Hon Peter Dutton MP, and of 6 October 2017 to the Secretary of Immigration and Border Protection, Michael Pezzullo, concerning the outsourcing of the Department's service centres in Sydney, London and Ottawa to an external service provider. The Minister and the Secretary appreciate the time you have taken to bring this matter to their attention and have asked that I reply on their behalf.

I would like to start by acknowledging that the Minister and the Secretary share your commitment to safeguarding Australian jobs; promoting a strong Australian economy; and ensuring that the service provider delivers services with the same level of integrity as Departmental staff. I can assure you that careful consideration was given to each of these factors in reaching the decision to outsource the Department's service centres.

The Minister's focus on growing Australian jobs was reflected in his announcement following the 2017 Budget, where he stated that this initiative will increase jobs in Australia by bringing work onshore that is currently delivered overseas.

A key way in which the initiative will benefit the Australian economy and community is by improving service levels for the Department's clients. This will better support individuals and businesses in accessing information and making informed decisions on visa, citizenship, trade and customs matters.

The integrity of service provider staff is of the utmost importance. As such, the agreement between the service provider and the Department will require that the service provider, and service provider staff, comply with all applicable laws and regulatory requirements, including the Australian Public Service Code of Conduct and the Commonwealth Fraud Control Framework. Service provider personnel will be required to be properly trained, experienced, competent and capable of meeting the requirements of the tasks assigned to them in a professional and timely manner and to a standard acceptable to the Department. This will include the service provider's personnel obtaining AGSVA security clearances and undergoing the Department's Employment Suitability Clearance (ESC) before they can commence any role that deals with Departmental data that is not publicly accessible or any client data. Collectively these measures will ensure that the highest level of integrity, professional standards and accountability is maintained by the staff delivering the service on behalf of the Department.

Similarly, the Department takes privacy and data protection very seriously and the agreement between the selected service provider and the Department will outline specific requirements which the service provider must adhere to. These include compliance with laws such as the *Privacy Act 1988 (Cth)*, *Freedom of Information Act 1982 (Cth)*; and, as I have already mentioned, the ethical principles and practices of the Australian Public Service Code of Conduct. As a further layer to this compliance, Australian Government policy mandates, under the Information Security Manual, that the Department is required to review, annually, the security controls that the service provider has in place in order to protect client data. Furthermore, the Department will continue to own all client data, which will be retained on-shore in Australia.

The information that you have requested regarding the tender process cannot be released at this stage due to probity and commercial considerations. We will share more information with you and our staff once the contract with the successful service provider is signed, expected later this calendar year.


In the meantime, the Department is committed to supporting our staff and has been working closely with them in respect of redeployment opportunities. This includes measures such as giving primacy to affected staff in the Sydney Service Centre (SSC) for redeployment opportunities within the Department, creating new opportunities by consolidating some administrative functions, and creation of a pipeline of non-ongoing staff to back fill vacancies in the SSC as permanent staff are redeployed.

In conclusion, I acknowledge your concerns and assure you the Department is working to ensure the final agreement with the selected service provider is geared to maximising benefits to the Department's clients and the Australian economy, while minimising risks to clients and the Australian community.

The Department is committed to continuing its discussions directly with affected staff and through the National Staff Consultative Forum (NSCF), Service Centre Sub-committee, currently planned for 9 November 2017, and in turn at the next NSCF meeting, currently planned for 28 and 29 of November 2017.

Thank you for raising this matter with the Minister and the Secretary. You are welcome to contact me should you require any further information.

s22(1)(a)(ii)



Murali Venugopal
First Assistant Secretary, People Division
Department of Immigration and Border Protection

P: s22(1)(a)(ii)

E: 

s22(1)(a)(ii)

From: Louise SMITH s22(1)(a)(ii)
Sent: Thursday, 8 June 2017 3:53 PM
To: NSW Contact Centre s47E(d)

s22(1)(a)(ii)

Subject: Client Enquiry Services Request for Tender (RFT) update [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear Colleagues

During our face-to-face meeting on 10 May, I assured you that you would be kept informed about the progress of outsourcing the Department's client enquiry services.

As such I want to advise you that the Department will be releasing the Request for Tender (RFT) for Client Enquiry Services, to selected companies (shortlisted from the Department's approach to market last year), on **Friday 9 June 2017**.

To support the RFT process, on Tuesday 20 June the Department will conduct an Industry Briefing to representatives of those shortlisted companies at the department's office in Belconnen, ACT.

An email from the A/g First Assistant Secretary, Digital Transformation and Channels Division will also be sent to all departmental staff reminding them of their obligations to comply with normal government procurement processes during the RFT period.

The RFT process is lengthy and is not expected to be finalised until later this year. Until this time, no details will be known.

In the interim, your manager and team leaders will continue to support you during this process.

If you have any questions, please speak to your manager or team leaders and you can email questions and comments to the Client Enquiry Services Support mailbox at s47E(d)

Thank you again for your continued commitment and service during this period of transition.

Regards

Louise
 Louise Smith
 Assistant Secretary, Channel Management Branch
 Digital Transformation and Channels Division | Visa and Citizenship Services Group

Department of Immigration and Border Protection

s22(1)(a)(ii)

For-Official-Use-Only

s22(1)(a)(ii)

From: Louise SMITH s22(1)(a)(ii)**Sent:** Friday, 9 June 2017 2:20 PM

s22(1)(a)(ii)

Subject: HPRM: Client Enquiry Services Request for Tender (RFT) update [DLM=For-Official-Use-Only]**For-Official-Use-Only**

Dear Colleagues

Following the Government's announcement to outsource the Department's client enquiry services, the Department has released a Request for Tender (RFT) to engage a Service Provider to deliver client enquiry services on behalf of the Department. As the scope of this RFT includes all types of enquiries we handle in the department, I thought it would be important to inform you of the market approach. I also spoke to you about this when I visited Melbourne office on 11th May, following my visit to Sydney to talk to the staff of the Sydney Service Centre.

The RFT was released earlier today to selected companies on AusTender (shortlisted from the Department's approach to market last year).

To support the RFT process, on Tuesday 20 June the Department will conduct an Industry Briefing to representatives of those shortlisted companies at the Department's office in Belconnen, ACT.

A message from the A/g First Assistant Secretary, Digital Transformation and Channels Division will also be published on the intranet reminding staff of their obligations to comply with normal government procurement processes during the RFT period.

The RFT process is lengthy and is not expected to be finalised until later this year. Until this time, no details will be known.

If you have any questions, please email the Client Enquiry Services Support mailbox at

s47E(d)

Thank you again for your continued commitment and service during this period of transition.

Regards

Louise

Louise Smith

Assistant Secretary, Channel Management Branch

Digital Transformation and Channels Division | Visa and Citizenship Services Group

Department of Immigration and Border Protection

s22(1)(a)(ii)

For-Official-Use-Only

s22(1)(a)(ii)

From: s22(1)(a)(ii) on behalf of Tara CAVANAGH
Sent: Friday, 9 June 2017 3:36 PM
To: s47E(d) s22(1)(a)(ii) Peter VAN
 VLIET; s22(1)(a)(ii)
 s22(1)(a)(ii)

Subject: Probity Notice: Request for Tender DIBP 11/16 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Colleagues

On 9 June 2017, the Department released a Request for Tender (RFT) DIBP RFT 11/16 for the provision of client enquiry services. This RFT closes on 20 July 2017.

Probity principles during procurement

It is expected and appropriate that staff do not discuss any part of this procurement with any current or possible suppliers or service providers, or their staff, at any time. It is important to ensure that the procurement process continues in a demonstrably fair and equitable way. Gifts and invitations of hospitality from any possible suppliers or service providers must not be accepted.

Social media

The Department uses a variety of social media platforms as part of its communication activities. Staff should be conscious when using personal social media accounts not to publically discuss confidential or classified material, which includes any information about current procurements. This may inadvertently provide an unfair advantage to tenderers.

How to handle enquiries about the tender process

If you are approached about the procurement process, you should direct the person to email s47E(d) record any exchange in writing and provide this information to the contact officer listed below.

Contact officer

Questions from departmental staff about these instructions should be directed to the contact officer:

CES procurement mailbox s47E(d)

Regards

Tara Cavanagh
 A/g FAS Digital Transformation and Channels Division
 Visa and Citizenship Services Group
 Department of Immigration and Border Protection

s22(1)(a)(ii)

UNCLASSIFIED

From: Louise SMITH
To: s22(1)(a)(ii)
Subject: FW: CPSU & NSCF Service Centre Sub-Committee - CES RFT released [DLM=For-Official-Use-Only]
Date: Friday, 9 June 2017 2:28:08 PM

For-Official-Use-Only

fyi

Louise Smith
 Assistant Secretary, Channel Management Branch
 Digital Transformation and Channels Division | Visa and Citizenship Services Group Department
 of Immigration and Border Protection
 P s22(1)(a)(ii) | M s22(1)(a)(ii)

For-Official-Use-Only

From: s22(1)(a)(ii) **On Behalf Of** s47E(d)
Sent: Friday, 9 June 2017 2:12 PM
To: s22(1)(a)(ii)
 s22(1)(a)(ii)
Cc: s47E(d), Louise SMITH, s22(1)(a)(ii)
Subject: CPSU & NSCF Service Centre Sub-Committee - CES RFT released [DLM=For-Official-Use-Only]

For-Official-Use-Only

Dear CPSU and NSCF Service Centre Sub-Committee members,

Following the 2017 Budget announcement by Government to outsource client enquiry services to an external Service Provider, the Request for Tender (RFT) for Client Enquiry Services was released to selected companies through AusTender today, Friday 9 June 2017.

In support of this RFT, an Industry Briefing will also be held Tuesday 20 June 2017 in National Office in Canberra.

Staff from the Sydney, Americas and Europe Service Centre have been sent an email informing them of the upcoming release. A message from the A/g First Assistant Secretary, Digital Transformation and Channels Division has also been published on the intranet reminding staff of their obligations to comply with normal government procurement processes during the RFT period.

A National Staff Consultative Forum (NSCF) Service Centre Sub Committee meeting has been scheduled for 13 July 2017 where the RFT will be added as an item on the agenda for discussion. An update from the service centre sub-committee meeting will be provided at the NSCF meeting scheduled for 25-26 July 2017.

Staff, the Service Centre Sub-committee and the CPSU will continue to be kept updated on the

RFT process and progress.

Regards

Louise Smith

Assistant Secretary, Channel Management Branch

Digital Transformation and Channels Division | Visa and Citizenship Services Group Department
of Immigration and Border Protection

P: s22(1)(a)(ii) M: s22(1)(a)(ii)

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Meeting Outcomes and Actions Arising National Staff Consultative Forum Service Centre Sub Committee

Video Conference

Thursday, 18 July 2017

9.00am -10.30am

Attendees

NAME	ROLE
Renelle Forster	Chair NSCF SC Sub Committee Assistant Secretary Channel Management Branch (AS CMB)
s22(1)(a)(ii)	Director, Service Centre Support Section
s22(1)(a)(ii)	Service Centre Staff Representative
Lesley Dalton	Regional Director NSW/ACT
s22(1)(a)(ii)	CPSU Workplace Delegate
s22(1)(a)(ii)	CPSU Field Organiser
s22(1)(a)(ii)	CPSU DIBP National Organiser
s22(1)(a)(ii)	Manager, Telephony Interpreter Service (TIS)
s22(1)(a)(ii)	Manager, Sydney Service Centre
s22(1)(a)(ii)	Director, People and Support NSW
s22(1)(a)(ii)	Director, Sydney Service Centre
s22(1)(a)(ii)	Victoria Staff Representative
s22(1)(a)(ii)	NSCF SC Sub Committee Secretariat

Apologies: s22(1)(a)(ii) (NSW NSCF Staff Representative),
s22(1)(a)(ii) (Director, People and Support VIC/TAS),
s22(1)(a)(ii) (Director, TIS National & GFU)



Meeting Outcomes and Actions Arising

s22(1)(a)(ii)

s22(1)(a)(ii)

Continuous improvement and approach to market update	Discussion Points No Action arising	Update regarding known timeframes for RFT process: <ul style="list-style-type: none"> • Announcement of service provider will not be until contract is signed. At this stage we anticipate this would be by end December 17. • Process is complex and is in line with Dept. Finance policy and procedures • Process includes evaluation, contract negotiation, reconciliation, multiple signoffs and approvals • Anticipated timeline for full outsourcing is 12-18 months from budget announcement in May. <p>Director Service Centre Support emphasised commitment to sharing information as soon as possible in line with probity requirements.</p>
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s22(1)(a)(ii)

For Noting

Chair of the NSCF SC Sub-committee acknowledged issues raised by members and thanked all for their candid, open conversation in relation to staffing and transition concerns

Chair reinforced commitment to provision of information to staff and sub-committee as soon as permissible.

Reminded members that service centre outsourcing was a government budget decision.

Highlighted the current constraint the organisation had in providing detailed information due to:

- Outcome of RFT unknown
- The detailed solution offered by market unknown
- Constraints regarding RFT probity

s22(1)(a)(ii)



Meeting Outcomes and Actions Arising National Staff Consultative Forum Service Centre Sub Committee

Video Conference

Thursday, 09 November 2017

9.30am -10.30am

Attendees

NAME	ROLE
Renelle Forster	Chair NSCF SC Sub Committee Assistant Secretary Channel Management Branch (AS CMB)
s22(1)(a)(ii)	Director, Service Centre Support Section
s22(1)(a)(ii)	Director, Sydney Service Centre
s22(1)(a)(ii)	Service Centre Staff Representative
Lesley Dalton	Regional Director NSW/ACT
s22(1)(a)(ii)	NSW NSCF Staff Representative
s22(1)(a)(ii)	CPSU Field Organiser
s22(1)(a)(ii)	CPSU DIBP National Organiser
s22(1)(a)(ii)	Manager, Sydney Service Centre
s22(1)(a)(ii)	People Business Partner and Director Support NSW
s22(1)(a)(ii)	NSCF SC Sub Committee Secretariat
s22(1)(a)(ii)	NSCF SC Sub Committee Secretariat

Apologies: s22(1)(a)(ii) (CPSU Workplace Delegate)



Meeting Outcomes and Actions Arising

s22(1)(a)(ii)

Approach to market for client enquiry services update	Discussion Points	s22(1)(a)(ii), Director of Service Centre Support Section and CESI Project provided an update regarding known timeframes for RFT process:
	No Action arising	<ul style="list-style-type: none"> • Announcement of service provider will not be until contract is signed. We are on schedule and at this stage we anticipate this would be by end of the year. • Due to probity requirements, we are not in a position to discuss which service provider we are dealing with. • Project is set to deliver on time, pending any unforeseen delays. Transition to commence shortly after. • Anticipated timeline for full outsourcing is 12-18 months from budget announcement in May. • Aim is to deploy all SSC staff. They are security cleared, well skilled and we are leveraging off this. • Highlighted the significant efforts and resources going in to find jobs for staff: <p>Chair emphasised commitment to sharing information as soon as possible in line with probity requirements.</p>



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<u>Other Business</u> CPSU raised question regarding the plans to redeploy APS3 workforce	Discussion Points	<ul style="list-style-type: none">• Director, People and Support NSW outlined activities already undertaken and planned to support staff, such as career coaching sessions, and sessions on job interviews and writing CVs.• Again emphasised the amount of work going into finding jobs for staff and the work occurring across business areas in both NSW and Canberra to support this. <div>s22(1)(a)(ii)</div>
		<p>Opened discussion to group</p> <ul style="list-style-type: none">• Unions provided feedback that they had nothing further to add as they were in very regular contact with SSC and NSW HR and were satisfied with the discussions and progress to date
<u>For Noting</u> Chair of the NSCF SC Sub-committee acknowledged the huge effort that NSW HR has put into finding positions for staff, while balancing the need to maintain client service.		<ul style="list-style-type: none">• Chair reinforced commitment to provision of information to staff and sub-committee as soon as permissible.• Reminder that FAQs are available on the Enterprise Knowledge Support System (EKSS).• Chair encouraged that staff send any questions or suggestions to the Client enquiry support service mailbox.

s22(1)(a)(ii)



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NSCF November 2017

SERVICE CENTRE SUB-COMMITTEE UPDATE

The NSCF Sydney Service centre Sub-committee met on 9 November 2017. The following items were discussed. No new issues were raised.

s22(1)(a)(ii)

- Approach to market for client enquiry services update with the following noted:
 - Announcement of service provider will not be available until contract is signed and RFT process finalised. We are on schedule and at this stage we anticipate this would be by end of the year.
 - Due to probity requirements, we are not in a position to discuss any details of the RFT or service provider.
 - Anticipated timeline for full outsourcing is 12-18 months from the Government's May budget announcement.
 - Significant efforts, resources and activities have been committed and undertaken to find jobs for staff as well as support and engage them through the transition period.
 - Our aim is to redeploy all SSC staff by 30 June. The Department thinks this is achievable given the SSC staff are all security cleared, well skilled, and have a broad knowledge of Departmental functions. Business areas have also been particularly positive regarding the high quality of SSC staff, whenever we have placed them or secured a position in the past.
 - We are and will continue to work with areas both within the Department as well as speaking to other APS agencies regarding potential opportunities.

s22(1)(a)(ii)

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Client Enquiry Services Implementation Project FAQs

Sydney Service Centre

VERSION 1.16

13 September 2017

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Decision to outsource client enquiry services

Will the Sydney Service Centre (SSC) close if client enquiry services is outsourced to an external Service Provider?

A: Yes. As a result of a decision taken by Government, the Department commenced a tender process on 9 June 2017 to source an external Service Provider to manage client enquiry services. This process will take some time to complete. It is important for you to understand that there will be no changes to your roles in the short term.

It is expected that the phased transition of client enquiry services to an external Service Provider should be complete by the start of the 2018-19 financial year. The exact timeframe will not be known until the evaluation of RFT is complete and a contract signed with the Service Provider. You will be advised when this information is known and we will consult with you on the implementation.

Will client enquiry services delivered by the Americas Service Centre (ASC) and Europe Service Centre (ESC) also be outsourced to an external Service Provider?

A: Yes. Client enquiry services delivered by the ASC and ESC will also be outsourced to an external Service Provider.

Is this decision related to the Location of Work being undertaken?

A: No. A review of Location of Work forms part of the Visa and Citizenship Business Operating Model (VCOM2020) within Visa and Citizenship Management division. More information about VCOM2020 is available on [bordnet here](#).

Who made the decision to outsource the Department's enquiry centres?

A: This was a decision taken by Government to wholly outsource the Department's service centres and announced as part of the 2017-18 budget.

As the Secretary and Commissioner mentioned in their All Staff Message (ASM), you have done great work to improve efficiencies and to innovate in our service delivery. However, unless we continue to evolve and modernise, we will be unable to continue to deliver high quality services and meet Government and public expectations as the volumes of people travelling to our shores and goods crossing our borders continue to increase exponentially.

External service provider

Where will the external Service Provider be located?

A: The external Service Provider will be Australian based. The Minister for Immigration and Border Protection's media release states that the market will be used to outsource client enquiry services, bringing work onshore that is currently delivered overseas.

Will those working for the external Service Provider be subject to the normal security clearances?

A: Yes. Service Provider staff who will have access to departmental systems as part of their role must first undergo employment suitability screening and be granted an Employment Suitability Clearance (ESC), as well as a minimum Baseline Commonwealth security clearance.

The information we provide is quite complex, how will the external Service Provider be able to provide these services?

A: There are a number of external Service Providers that specialise in the provision of call centre services ranging in complexity. We will carefully manage the transition to ensure service is maintained with an outsourced Service Provider, while continuing to improve on the quality and clarity of information provided to clients through all of our communication channels.

How will security, privacy and risk management be assured?

A: Any mandatory security, privacy and risk management requirements needed will be an essential part of our future client delivery contract. The Department already manages these issues successfully in our contractual arrangements relating to the provision of other services, for example client services provided by service delivery partners.

Who will train staff employed by the external Service Provider?

A: Details will not be known until the preferred supplier is engaged, which will not happen until later this year. However, we expect the successful external Service Provider will have expertise in the training and development of their staff.

Will the external Service Provider manage all types of calls currently managed by the Sydney Service Centre, such as Citizenship tests?

A: We expect the external Service Provider to manage all types of calls currently managed by the SSC, ESC and ASC.



Procurement process and timing

We have heard the evaluation for the Client Enquiry Services Project has been completed. Does that mean the Service Provider has been chosen?

A: The Service Provider has not yet been chosen. The RFT Evaluation Committee has completed an assessment of the Tender responses and drafted the Tender Evaluation Report for the Delegate to consider. The Delegate, Deputy Secretary Visa and Citizenship Services Group, makes the final decision.

What happens after the evaluation of tender submissions has been completed?

A: After review and endorsement by the RFT Steering Committee the Tender Evaluation Report is presented to the Delegate to make a decision.

What happens after the report is reviewed by the Delegate?

A: If the Delegate accepts the recommendations in the RFT Evaluation Report it is anticipated that we will enter into a negotiation period with the preferred Tenderer(s). A Negotiation Directive is prepared to give guidance to the contract negotiation team including how the negotiation should be conducted, identifying the issues to be addressed and the bounds the negotiation team must work within.

What happens if the Delegate rejects the recommendations in the RFT Evaluation Report?

A: In line with all Commonwealth procurement processes, it is open to the Delegate to either accept, seek further information and/or reject the recommendations in the Evaluation Report. For example, it is possible after considering all of the issues, for the Delegate to come to a different conclusion from the RFT Evaluation Committee and Steering Committee which could result in a decision being made for negotiations to commence with a different service provider. It is also possible for the Delegate to decide to cancel the current procurement and require a new procurement process to commence if they decide that no service provider offers value for money for the Commonwealth. However, if the Delegate accepts the recommendations in the RFT Evaluation Report, it is anticipated that contract negotiations with the preferred Tenderer(s) will commence immediately afterwards.

What happens during contract negotiations?

A: Contract negotiations involve a series of formal sessions between the contract negotiation teams representing the Department and the preferred Tenderer(s). The teams will seek to reach agreement on identified issues. If agreement cannot be reached within the required timeframe, the Department can suspend negotiations with the preferred tenderer and start negotiations with the next preferred tenderer. Due to probity reasons, information cannot be shared throughout contraction negotiations, similar to the evaluation process.

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When will the external Service Provider be announced?

A: It is expected that the Service Provider will be announced in December. Should this timeframe change, we will let staff know.

When did the Department publish the Request for Tender?

A: The Department released the Request for Tender (RFT) for Client Enquiry Services, to selected companies (shortlisted from the Department's approach to market last year), on Friday 9 June 2017.

To support the RFT process, on Tuesday 20 June the Department conducted an Industry briefing to representatives of those shortlisted companies at National Office in Canberra.

The RFT closed on 20 July. An email from the A/g First Assistant Secretary, Digital Transformation and Channels Division was sent to all departmental staff reminding them of their obligations to comply with normal government procurement processes during the RFT period. The RFT period is lengthy and includes multiple phases including evaluation, approvals and contract negotiation phases. We will update you once it is finalised later this year.

What is the cost savings benefit to outsourcing, given the extensive investment in existing staff recruitment, security clearance, training, knowledge and experience?

A. In making the decision to outsource, the Government has fully considered costs and benefits.

At the time the Department approached the market last year was their intent to outsource the service centres?

A: The approach to market was intended to seek information about innovative ways to undertake future client enquiry services. We were able to identify that there was a suitable market to do this.

When is the service centre going to be outsourced?

A: The phased transition of client enquiry services to an external Service Provider should be complete by the start of the 2018-19 financial year. Details will not be known until the preferred supplier is engaged, which will not happen until later this year. You will be advised when this information is known.

Will there be a period when the SSC will operate alongside the service provider?

A: The exact nature of the transition to the external Service Provider will not be known until a provider has been selected and a contract has been signed, later this year.

Support for staff

What does the decision to outsource mean for my job?

A: It is important for you to understand that there will be no changes to your role in the short term. Both your managers and the NSW People and Support team will work with you in relation to how the change will impact you, once there is more clarity about engagement of a preferred supplier.

You can contact the Employee Assistance Programme (EAP) for support and confidential counselling by ringing s22(1)(a)(ii). You can also access EAP onsite at the Sydney Service Centre each week.

What level of prioritisation will Sydney Service Centre staff get when placement consideration commences?

A: Prior to work areas being able to undertake other forms of recruitment to fill a vacancy, they must first consider any Departmental staff at level who require placement. No vacancy can be filled without considering these staff.

Will there be enough positions for displaced staff ahead of further visa reform and improved efficiency/digital/automating initiatives?

A: While we don't know the exact nature and timing of changes once the external Service Provider is determined and announced, we do know there is always some level of natural attrition and internal movement. The Department is committed to working with all impacted staff within the Sydney Service Centre to consider redeployment options.

What happens to my job in the meantime?

A: In the meantime, it will be business as usual at the Service Centre until the transition is complete. Your skills and continued commitment is needed during the interim to ensure we can continue to provide client enquiry services.

Is internal redeployment guaranteed for SSC staff?

A: The Department is committed to working with impacted staff within the Sydney Service Centre to consider redeployment options and supporting staff in line with the requirements of the Enterprise Agreement.

Will staff currently working part time be offered part time redeployment opportunities?

A: The NSW People and Support team and the Sydney Service Centre management team are committed to working with all impacted staff to consider redeployment options within the Department.

In saying that, under the Department's Enterprise Agreement, an employee's variable working hours agreement is subject to review every 12 months and when an employee moves to a different work area. In such circumstances, a new agreement may be

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[REDACTED]

negotiated around the operational requirements of the new work areas, with consideration to the personal needs of the employee, wherever possible.

You have told us that voluntary redundancies will not be offered at this stage. If placements cannot be found for everyone, will redundancies be considered?

A. There are no voluntary redundancies being considered at this time. Redeployments will be managed carefully to ensure services continue to be delivered throughout the period of transition. In accordance with the Australian Public Service redeployment principles, reductions will be managed primarily through natural attrition and placements within the region.

When will ongoing staff in the SSC find out about their redeployment options?

A. The Department will work with all impacted staff to consider redeployment options within the Department. It is unlikely that we will look to redeploy staff immediately as the Sydney Service Centre needs to continue to operate until an external Service Provider is in place. Once the timing of the transition to an external Service Provider is clearer, we will be able to provide further information about the engagement with staff on redeployment options.

I am a contractor/non-ongoing employee, what is going to happen with my contract?

A: We have made a commitment to non-ongoing staff and have recently offered contracts until June 2018.

What help can I expect from the Department to find suitable roles?

A. Your managers and the NSW People and Support team will work directly with you to identify placement opportunities. In the interim, you will continue to work within the Division and will be provided with meaningful work at your APS classification.

Career coaches will be engaged to work with you to discuss your career plan, identify opportunities for your future career path and if you request will assist you with the preparation of your CV.

Following the transition period, some staff may be placed in the allocation pool. These staff must be considered for all vacancies in the Department at their substantive classification before vacancies are advertised and filled.

Will I continue to be trained and upskilled during the transition?

A. Yes. It is business as usual for us and we will continue to provide you with training to upskill all information officers through the skillset pathway.

How and where will I find another position in the Department?

A. The NSW People and Support team and the SSC management team will work with all impacted staff to consider redeployment options within the Department.

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What should I do if I need to attend interviews for other jobs?

A: We value your continued contribution during the transition period. However, if you wish to look for other jobs and attend interviews, we ask you to work with your supervisor so we can manage what leave you require in a planned way.

If I find another position, will you release me?

A: We will work to support staff who have secured other roles. As always, operational requirements need to be taken into consideration when considering releasing staff members to work in other work areas. The Service Centre Director will negotiate release dates on a case-by-case basis, ensuring client services are maintained.

What if I don't want to work in another area?

A: Your managers and the NSW People and Support team will work directly with all impacted staff in respect to available job opportunities. While it may not be your preference to change work areas, the reality may be that job opportunities within the region are limited. While we acknowledge this will be a difficult time for many staff, we ask that you work closely with your managers and the NSW People and Support team who will engage with you in respect to your individual circumstances.

Will redeployment options be only within Immigration or also the Australian Border Force?

A: Options for redeployment will be considered across all business areas

What happens if no other section has the capacity or funding to absorb redeployed staff?

A: The Department will work with all impacted staff to consider redeployments options within the Department. In the event of a suitable role cannot be identified in NSW, employees will be placed in the allocation pool. These employees must be considered for all vacancies at their substantive classification level in the location (and other locations, if the employee indicates they are willing to relocate) before recruitment action is undertaken to fill the position through other avenues.

If there is any option or avenue requesting the reassignment to a different region other than NSW?

A: Options for redeployment will be considered across the region. Staff interested in moving to another region are encouraged to apply through merit-based recruitment processes, as they arise. If you are interested in a role within another region, you may choose to raise this with your supervisor in the context of career conversations.

Would we be required to interview for other jobs in our Department and if so what happens if we don't get a job offer?

A: It is possible where there a number of staff interested in the same vacancy they may need to participate in a merit-based selection process.

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Will employees be given any options or choices about the upcoming roles?

The Department is committed to working with all impacted staff to consider redeployment options within the Department. This includes engaging with you around your career aspirations and personal circumstances.

Would other government departments be able to absorb us if the Department cannot?

A: The Department will work with all impacted staff to consider redeployment options within the Department. Given this commitment, we are not exploring placement opportunities in other government departments at this time.

Has the union been consulted?

A: The Department initially met with the CPSU on Thursday 11 May 2017. Since then we have reestablished the NSCF Service Centre Sub-committee (meeting on 18 July) where the Service Centre outsourcing is a standing agenda item. Consultations will occur according to the requirements of the Department's Enterprise Agreement, and we will consult with you and the CPSU throughout the implementation.

What support is the Department going to provide to me?

A: The Department will work with all impacted staff to consider redeployment options within the Department. Additionally, support may be provided through career coaches and services such as the EAP. Of course your managers and the NSW People and Support team will also be available to assist you through this process.

How can I find out more?

A: Speak to your managers, team leader or the Director of Sydney Service Centre. You may also wish to speak with the Director People and Support, or Manager People.

A 'Client Enquiry Services Support' mailbox has also been created at s47E(d) for staff to send questions and comments.

Author:	Client Enquiry Services Implementation Project
Clearing Officer(s):	Digital Transformation and Channels Division <ul style="list-style-type: none"> • Channel Management Branch • Sydney Service Centre • Digital Strategy and Coordination Section People Division, Workforce Management, Employee Relations NSCF Secretariat Probity Team Media Team FAS Digital Transformation and Channels Division
Content Provided by:	Digital Transformation and Channels Division <ul style="list-style-type: none"> • Channel Management Branch • Sydney Service Centre • Digital Strategy and Coordination Section People Division, Workforce Management, Employee Relations
Date:	13/09/2017

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FOI Doc #13 is not included as the entire document is exempt under s.34 of the FOI Act



Australian Government

Department of Immigration and Border Protection

ABN: 33 380 054 835

REQUEST FOR TENDER (RFT)

for THE PROVISION OF CLIENT ENQUIRY SERVICES

DIBP RFT 11/16

The Department of Immigration and Border Protection (**DIBP**) invites interested shortlisted parties to submit Tenders in accordance with this RFT for the products, goods and/or services described in the Statement of Requirement at **Attachment B**.

This RFT consists of:

- a. **PART 1** - RFT Details, which set out the specific details that apply to this RFT; and
- b. **PART 2** - Terms and Conditions that apply to this RFT; and
- c. **Attachment A** (Glossary);
- d. **Attachment B** (Statement of Requirement);
- e. **Attachment C** (Service Levels);
- f. **Attachment D** (Draft Agreement);
- g. **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
- h. **Attachment F** (Tenderer Response Forms)

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PART 1 - RFT DETAILS

RFT Detail	Details
RFT Number	RFT 11/16
Closing Time	14:00 pm on 20 July 2017 (local time in Canberra, Australian Capital Territory).
Contact Officer	Name: The CES Contact Officer Email: ces.procurement@border.gov.au
Description of the Services	<p>The Services being sought are Client Enquiry Services meeting the requirements in the Statement of Requirements.</p> <p>The Service Provider will be required to service all enquiries by clients that the Department has classified as Tier 1 or Tier 2 enquiries</p> <p>Tier 1 enquiries involve the provision of information that is publicly available on the Website, Departmental cleared Scripts and Frequently Asked Questions (FAQs). This includes:</p> <ul style="list-style-type: none">a. Information on Visa categories, Citizenship, Travel or Trade (including bringing goods in and out of Australia)b. Information on relevant Fees and Charges and Service Standards; andc. Information and guidelines on the process of a Visa, Citizenship Application, Trade and Travel related activities. <p>Tier 2 enquiries involve the provision of information that requires access to the Department's Line of Business systems in order to resolve the enquiry. This includes:</p> <ul style="list-style-type: none">a. Application Status/Progress;b. Update Test/Ceremony Appointment Enquiry or Reschedule – Citizenship;c. Check client's visa details/conditions/expiry;d. Eligibility calculations – Citizenship;e. Update Contact Details;f. Online systems errors/ change of password; andg. Documents Required/Received confirmation. <p>Further details of the Services are set out in Attachment B (Statement of Requirement).</p>

RFT Detail	Details
Mandatory Requirements	<p><u>Conditions for Participation:</u></p> <ol style="list-style-type: none"> 1. The Tenderer must submit the Tender by the Closing Time; 2. The Tenderer must be financially and commercially viable to perform the Services (please see Form 7 (Details of financial viability and commercial viability of Tenderer) in Attachment F (Tenderer Response Forms); 3. The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim; 4. The Tenderer, its Personnel, and any Subcontractors proposed in the Tender must not, at the Closing Time, be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth); and 5. The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the consolidated list referred to in Regulation 40 of the <i>Charter of United Nations (Dealing with Assets) Regulations 2008</i> (Cth). <p><u>Minimum Content and Format Requirements:</u></p> <ol style="list-style-type: none"> 1. The Tenderer must Tender for all the Services in Attachment B (Statement of Requirement). No Tenders for only part of the Services set out in Attachment B (Statement of Requirement) will be allowed; 2. The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in Form 2 of Attachment F (Tenderer Response Forms); 3. The Tenderer must comply with AusTender lodgement requirements and procedures; and 4. Measurements in the Tender must be expressed in Australian legal units of measurement.
Intended Timetable for the RFT	<p>Issue RFT: 9 June 2017</p> <p>Industry Briefing: 20 June 2017</p> <p>Closing Time: 14:00 pm 20 July 2017</p> <p>Evaluation period: 24 July 2017 – 25 August 2017</p> <p>Contract with successful tenderer finalised: 17 November 2017</p> <p>This timetable is indicative only (see Terms and Conditions clause Error! Reference source not found.).</p>

RFT Detail	Details
Intended outcome of the RFT Process	One successful Tenderer for provision of the Services (see Terms and Conditions clause 23 and Attachment D (Draft Contract)).
Proposed Contract Period	Three (3) years , with further options for DIBP to extend the Contract for any number of periods not exceeding a further four (4) years in aggregate .
Tender Validity Period	Twelve (12) months after the Closing Time (see Terms and Conditions clause 6).
Industry Briefings	<p>Details of the Industry Briefing are:</p> <p>Date: 20 June 2017</p> <p>Location: 5 Chan St, Belconnen, ACT, 2603</p> <p>Time: 14:30 pm to 16:30 pm</p> <p>Attendance at briefing compulsory: No</p> <p>Registration for briefing compulsory: Yes</p> <p>Closing time for registration for briefing: 14:00 pm 20 June 2017</p> <p>(See Terms and Conditions clause 8).</p> <p>Note to Tenderers: whilst attendance at the Industry Brief is not compulsory, you are highly encouraged to attend.</p>
Site Inspection	There will be no Site Inspection of DIBP premises for this RFT Process.
Evaluation Process of Tenders and Evaluation Criteria	As set out in Part 3 .

RFT Detail	Details
Participation of other Commonwealth Agencies in this RFT Process	<p><input checked="" type="checkbox"/> DIBP is not aware of any other requirement by another Commonwealth Agency for the Services, but wishes to facilitate procurement by any other Commonwealth department or Agency in the future using the mechanisms in this RFT and Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p> <p><input type="checkbox"/> DIBP is aware of one or more other Commonwealth Agencies that, at the time of issuing this RFT, have indicated their interest in procuring the Services from successful Tenderer in the future but, at the time of issuing this RFT, DIBP is not aware of the details of the requirements of those Commonwealth Agencies. If other Commonwealth Agencies decide to procure the Services from the successful Tenderer (if any) in the future, DIBP intends to facilitate that procurement using the mechanisms in this RFT and the Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p> <p><input type="checkbox"/> DIBP is aware of one or more Commonwealth Agencies that, at the time of issuing this RFT, intend to procure the Services from the successful Tenderer as part of this RFT Process. In addition, DIBP wishes to facilitate procurement of the Services by other Commonwealth Agencies in the future using the mechanisms in this RFT and Attachment D (Draft Contract) (see Terms and Conditions clause 35).</p>
Does the Building Code and Guidelines apply?	<p><input checked="" type="checkbox"/> No</p>
Security Requirements	<p>Relevant Personnel of the successful Tenderer and its Subcontractors, where applicable, are required to be employment suitability and security cleared.</p> <p>Terms and Conditions Clause 38 sets out this requirement in further detail.</p>

PART 2 - TERMS AND CONDITIONS

1. The RFT

- 1.1. This RFT comprises:
- (a) **Part 1** - RFT Details, which set out the specific details that apply to this RFT;
 - (b) **Part 2** - Terms and Conditions that apply to this RFT;
 - (c) **Part 3** - Evaluation of Tenders;
 - (d) **Attachment A** (Glossary);
 - (e) **Attachment B** (Statement of Requirement);
 - (f) **Attachment C** (Service Levels);
 - (g) **Attachment D** (Draft Contract); and
 - (h) **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
 - (i) **Attachment F** (Tenderer Response Forms).
- 1.2. Tenderers' attention is also drawn to the:
- (a) Conditions for Participation; and
 - (b) Minimum Content and Format Requirements,
- as set out in **Part 1**.
- 1.3. **Attachment A** (Glossary) defines the terms used in this RFT. Capitalised terms have the meaning given to them in **Attachment A** (Glossary). Where capitalised terms appear throughout this RFT and are not specifically defined in **Attachment A** (Glossary), those terms have the meaning provided for them in this RFT in which they appear.
- 1.4. Where there is an inconsistency between any Part or Attachment of this RFT and any document referred to in or incorporated into this RFT, the order of priority for the purposes of construction is:
- (a) **Part 1** - RFT Details; then
 - (b) **Part 2** - Terms and Conditions; then
 - (c) **Part 3** - Evaluation of Tenders; then
 - (d) **Attachment A** (Glossary); then
 - (e) **Attachment D** (Draft Contract); then
 - (f) **Attachment B** (Statement of Requirement); then
 - (g) **Attachment C** (Service Levels); then
 - (h) **Attachment F** (Tenderer Response Forms); and then
 - (i) any other document forming part of this RFT.

2. Interpretation

- 2.1. In this RFT, except where the contrary intention is expressed:
- (a) words importing a gender include any other gender;
 - (b) words in the singular number include the plural and words in the plural number include the singular;
 - (c) section headings are inserted for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
 - (d) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority, agency or other entity;
 - (e) another grammatical form of a defined word or expression has a corresponding meaning;
 - (f) a reference to a clause, paragraph, part, attachment, schedule or annexure is to a clause, paragraph, part, attachment, schedule or annexure to this RFT and a reference to this RFT includes all attachments, schedules or annexures to it;
 - (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (h) the meaning of general words is not limited by specific examples introduced by including, 'for example' or similar expressions and the word 'include' is not a word of limitation;
 - (i) a reference to monetary units is to units of Australian Currency;
 - (j) a reference to time for delivery is to Australian Eastern Standard Time or Australian Eastern Daylight Saving Time as appropriate;
 - (k) a reference to a matter being to the knowledge of a person means that the matter is the best of the knowledge and belief of that person after proper inquiry including inquiry which a reasonable person would be prompted to make by reason of knowledge of a fact; and
 - (l) a reference to proper enquiry includes enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact.

3. Closing Time

- 3.1. Tenders must be lodged before the Closing Time.
- 3.2. The time displayed on AusTender is deemed to be the correct time and will be the means by which DIBP will determine that Tenders have been lodged by the Closing Time.
- 3.3. Notwithstanding **clause 3.2**, the judgment of DIBP as to the time a Tender has been lodged will be final.

- 3.4. DIBP may extend the Closing Time for all Tenderers, at its sole and absolute discretion. If it does so, DIBP will issue an addendum notifying Registered Tenderers of the extension in accordance with **clause 15** (Issue by DIBP of Addenda and Notices).

4. Tender Lodgement

Requirement to use AusTender

- 4.1. Tenders in response to this RFT must be lodged electronically using the Electronic Tender Box on the AusTender website, in accordance with the Tender lodgement procedures set out in this RFT and on AusTender.
- 4.2. Tenders lodged by any other means, including by hand, facsimile or email, will not be considered.

AusTender

- 4.3. AusTender is the online tendering system for Australian Government departments and Agencies at <https://www.tenders.gov.au>. AusTender allows Tenderers to download tender documentation and upload Tender responses. Tenderers are required to first register with AusTender and provide their contact details.
- 4.4. Access to and use of AusTender is subject to the terms and conditions set out on AusTender. Tenderers agree to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at <https://www.tenders.gov.au/?event=public.termsOfUse>.
- 4.5. Where there is any inconsistency between the tender lodgement procedures set out on AusTender and those set out in this RFT, this RFT will prevail to the extent of the inconsistency.
- 4.6. It is the responsibility of Tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither DIBP nor the Commonwealth take any responsibility for any problems arising from Tenderers' infrastructure and/or Internet connectivity.
- 4.7. Tenderers are required to inform themselves concerning all security measures and other aspects of the AusTender Information and Communications Technology (ICT) environment. Tenderers should make their own assessment of the AusTender system prior to using it for any matter related to this RFT and no responsibility will be accepted by DIBP arising in respect of any use or attempted use by any party of AusTender.
- 4.8. All queries and requests for technical or operational support in respect of AusTender are to be directed to:

AusTender Help Desk

Telephone: 1300 651 698

International: +61 2 6215 1558

Email: Tenders@finance.gov.au

- 4.9. The AusTender Help Desk is available between 9:00am and 5:00pm (local time in Canberra, ACT), Monday to Friday, excluding ACT and Australian national public holidays.

Virus Checking

- 4.10. In submitting their Tenders electronically, Tenderers warrant that they have taken reasonable steps to ensure that Tender response files are free of viruses, malicious code, worms or other disabling features that may affect the integrity or security of AusTender and/or DIBP computing environment. DIBP may exclude from evaluation any Tender response file which it reasonably considers contains Harmful Code.

Tender File Formats, Naming Conventions and Sizes

- 4.11. Tenderers are required to lodge their Tender in accordance with the requirements set out in this **clause 4** for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in:
- (a) the Tender not uploading properly before the Closing Time;
 - (b) the Tender not being successfully lodged before the Closing Time; and/or
 - (c) DIBP being unable to open, read or decrypt the Tender or part of the Tender, in which case DIBP may eliminate the Tender or part of the Tender from further consideration or evaluation.
- 4.12. DIBP will accept Tenders lodged in formats compatible with Microsoft Word 2010 (or later version), Microsoft Excel 2010 (or later version), Portable Document Format or as agreed in writing by the Contact Officer.
- 4.13. The Tender file name/s need to:
- (a) incorporate the Tenderer's name;
 - (b) reflect the AusTender ATM Number;
 - (c) reflect the various parts of the Tender they represent, where the Tender comprises multiple files;
 - (d) not contain any special characters, including the following characters: \ / : * ? " < > | (Tenderers should note that AusTender will not allow files containing these characters to be uploaded); and
 - (e) not exceed 100 characters including the file extension (Tenderers should note that AusTender will not allow files with names exceeding this requirement to be uploaded) .
- 4.14. Tender response files:
- (a) may not exceed a combined file size of five (5) megabytes per upload;
 - (b) should be uploaded from a high level directory on a Tenderer's desktop, so as not to impede the upload process;
 - (c) should be zipped (compressed) together for transmission to AusTender (Tenderers should contact the Contact Officer if they wish to use compression software other than 'WinZIP' or 'WinRAR' compression software, and may only do so if approved by the Contact Officer in writing);

- (d) should not be selected from a secure or password protected location, or from portable media such as a CD, DVD or USB;
 - (e) should not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by DIBP; and
 - (f) should not be encrypted in any way, unless otherwise required by this RFT or approved by the Contact Officer in writing.
- 4.15. AusTender will accept up to a maximum of five (5) files in any one upload of a Tender. Each upload should not exceed the combined file size limit of five (5) megabytes. If an upload would otherwise exceed 5 megabytes, the Tenderer should either:
- (a) transmit the Tender files as a compressed (zip) file not exceeding five (5) megabytes; or
 - (b) lodge the Tender in multiple uploads ensuring that each upload does not exceed five (5) megabytes and clearly identify each upload as part of the Tender.
- 4.16. If a Tender consists of multiple uploads, due to the number of files or file size, Tenderers should ensure that transmission of all files is completed before the Closing Time.
- 4.17. Tenders are required to be completely self-contained. No hyperlinked or other material may be incorporated by reference.

Scanned or Imaged Material, including Statutory Declarations

- 4.18. If this RFT requires a Tender to include a document that is to be signed and/or initialled on behalf of the Tenderer, including statutory declarations, deed polls, and deeds of confidentiality:
- (a) that document is to be physically signed (a typed or electronic signature is not permitted);
 - (b) the signed and/or initialled document should be scanned using Portable Document Format or other format approved by DIBP in writing;
 - (c) the total file size of the scanned document must not exceed the five (5) megabyte limit. The use of scanned or imaged material, where it expands the Tender file size beyond the five (5) megabyte limit per upload, is prohibited; and
 - (d) the scanned document is to be included in the Tender.
- 4.19. DIBP may require Tenderers to courier or security post the originals of signature and initialled pages to DIBP after the Closing Time at the Tenderer's cost. Receipt of these documents, including time and date, will be provided to the Tenderer by the Contact Officer.

Lodgement Process

- 4.20. Before submitting their Tender, Tenderers are required to:
- (a) ensure their technology platform meets the minimum requirements identified on AusTender;

- (b) refer to AusTender's help guidance, if required, on uploading Tenders;
 - (c) take all steps to ensure that the Tender is free from anything that might reasonably affect useability or the security or operations of AusTender and/or DIBP's computing environment;
 - (d) ensure that the Tender does not contain links in spreadsheets or documents to other spreadsheets or documents not included in the Tender, macros, script or executable code of any kind unless that specific material has previously been approved in writing by DIBP; and
 - (e) ensure that the Tender complies with all file type, format, naming conventions, size limitations or other requirements specified in this RFT or otherwise advised by DIBP or required by AusTender.
- 4.21. Tenderers should allow sufficient time for Tender lodgement, including time that may be required for any problem analysis and resolution prior to the Closing Time.
- 4.22. Tenderers should be aware that holding the "Lodge a Response" page in the web browser will not hold the Electronic Tender Box open beyond the Closing Time. An error message will be issued if the lodgement process is attempted after the Closing Time.
- 4.23. If Tenderers need to lodge any material that cannot be submitted via AusTender, Tenderers should contact the Contact Officer prior to the Closing Time to make arrangements for its submission. Unless otherwise agreed by the Contact Officer, any material that is not submitted via AusTender will not be accepted by DIBP.
- 4.24. Tenders lodged through AusTender will be deemed to be authorised by the Tenderer.
- 4.25. If Tenderers have any problem in accessing the AusTender website or uploading a Tender they must contact DIBP via the nominated Contact Officer and the AusTender Help Desk referenced in **clause 4.8** prior to the Closing Time. Failure to do so will exclude a Tender from consideration.

Proof of Lodgement

- 4.26. When a Tender lodgement has successfully completed, an official receipt is provided on screen. The on-screen receipt will record the time and date the Tender was received by AusTender and will be conclusive evidence of successful lodgement of a Tender. Tenderers should save and print this receipt as proof of lodgement. A separate email confirming receipt of the Tender will also be automatically dispatched to the email address of the registered user whose details were recorded at login.
- 4.27. Failure to receive a receipt means that lodgement has not completed successfully. Where AusTender has issued no receipt, the attempted lodgement will be deemed to have been unsuccessful. Tenderers should refer to **clause 4.20** and **clause 4.25**.

AusTender Security

- 4.28. Tenderers acknowledge that although the Commonwealth has implemented the security measures described on AusTender, the Commonwealth does not warrant that unauthorised access to information and data transmitted via the Internet will not occur.
- 4.29. Tenderers acknowledge that DIBP will not be liable for any Loss incurred by Tenderers or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.

Late Tenders, Incomplete Tenders and Corrupted Files

- 4.30. Tenders which are not properly submitted before the Closing Time will not be accepted unless the delay in Tender lodgement is as a consequence of mishandling by DIBP or another Agency.
- 4.31. Lodgement of Tenders before the Closing Time is entirely the Tenderer's responsibility.
- 4.32. Tenderers should be aware that AusTender will not permit any attempt to commence lodging a Tender, or any discrete component of a Tender, after the Closing Time. Such a Tender will be deemed to be a Late Tender.
- 4.33. Where electronic submission of a Tender has commenced prior to the Closing Time but concluded after the Closing Time, and upload of the Tender file/s has completed successfully, as confirmed by AusTender system logs, the Tender will not be deemed to be a Late Tender. Such Tenders will be identified by AusTender to DIBP as having commenced transmission prior to, but completed lodgement after, Closing Time.
- 4.34. Where a Tender lodgement consists of multiple uploads, due to the number and/or size of the files, Tenderers must ensure that transmission of all files is completed and receipted before the Closing Time and **clause 4.33** will only apply to the final upload commenced before the Closing Time.
- 4.35. Late Tenders, Tenders that are incomplete due to a failure to upload all files by the Closing Time, Tenders with electronic files that cannot be read or decrypted, Tenders which DIBP believes to potentially contain any virus, malicious code, worms, other disabling features or anything else that might compromise the integrity or security of AusTender and/or DIBP's computing environment, may be excluded from evaluation.

5. DIBP Contact Officer and Enquiries about the RFT**Contact Officer**

- 5.1. All enquiries in relation to this RFT should be:
- (a) in accordance with **clause 5.4** and by email;
 - (b) directed to, and only to, the Contact Officer; and
 - (c) received by the Contact Officer at least four (4) Business Days before the Closing Time.

- 5.2. DIBP may, at its sole and absolute discretion, refuse to accept any enquiry not made in accordance with **clause 5.1**.
- 5.3. No person other than the Contact Officer is authorised by DIBP to answer or respond to enquiries relating to this RFT. A Tenderer that communicates other than to the Contact Officer in relation to this RFT may be excluded from participating further in this RFT Process.
- 5.4. All enquiries in relation to this RFT should be:
- (a) in the form of the RFT Question Form set out at **Form 25 of Attachment F** (Tenderer Response Forms); and
 - (b) in Microsoft Word 2010 (or later version) compatible format.
- 5.5. Tenderers may submit any number of RFT Question Forms. A new RFT Question Form is to be used for each enquiry. DIBP will not respond to questions that are not submitted on an RFT Question Form.
- 5.6. DIBP encourages Tenderers to send enquiries as soon as they arise, rather than waiting to send all enquiries at one time.
- 5.7. Tenderers should complete each field of the "Required Question Submission Information" in the RFT Question Form.
- 5.8. All RFT Question Forms should have a file name in the following format:
- [Tenderer Name][Tenderer Question Form Sequence Number].docx
- where:
- (a) "[Tenderer Name]" is replaced with the Tenderer's name or an easily and consistently identified short name or acronym; and
 - (b) "[Tenderer Question Form Sequence Number]" is replaced with the sequence number of the Tenderer's question form, expressed as a three digit number.

Note to Tenderers: For example, the 3rd RFT Question Form submitted from Tenderer ABC should have the file name "ABC003.docx"

- 5.9. DIBP intends to provide all Registered Tenderers with access to the questions and answers to enable so far as practicable all Tenderers to have the opportunity to access the same information relating to the RFT (unless identified as commercial in-confidence by a Tenderer).
- 5.10. DIBP reserves the right to issue any addenda in accordance with **clause 15** (Issue by DIBP of Addenda and Notices), setting out any enquiry in relation to this RFT and DIBP's response, on a non-attributable basis.
- 6. Tender Validity Period**
-
- 6.1. Tenders are to remain valid for acceptance by DIBP for the Tender Validity Period.

7. Intended Timeframe For The RFT Process

- 7.1. The RFT Details in **Part 1** set out DIBP's intended timetable for the RFT Process. However, any time or date set out in this RFT (other than the Closing Time) is indicative only, and creates no obligation on DIBP, or any right in a Tenderer, in relation to these dates.

8. Industry Briefings

- 8.1. Where the RFT Details in Part 1 indicate that there will be an Industry Briefing:
- (a) the Industry Briefing will be open for Registered Tenderers to clarify DIBP's objectives and priorities for this RFT and to respond to questions arising out of the RFT Process;
 - (b) Registered Tenderers will be required to register their attendance at the Industry Briefing;
 - (c) DIBP may change the date, location and/or time of the Industry Briefing at its absolute discretion, by issuing an addenda in accordance with **clause 15** (Issue by DIBP of Addenda and Notices);
 - (d) if in the course of the Industry Briefing it becomes clear to DIBP, in its sole and absolute discretion, that it is necessary to distribute additional information relating to or concerning this RFT and/or the Services, then DIBP reserves the right to distribute that information to all Registered Tenderers in accordance with **clause 15** (Issue by DIBP of Addenda and Notices);
 - (e) Tenderers may not rely on a statement made at the Industry Briefing as amending or adding to this RFT unless that amendment or addition is confirmed by DIBP in writing in accordance with **clause 15** (Issue by DIBP of Addenda and Notices) and **clause 31.2** will apply to any information given at the Industry Briefing; and
 - (f) attendance at the Industry Briefing will be at the Registered Tenderer's own cost.

9. Provision of other materials by DIBP

- 9.1. Unless indicated by the RFT Details, DIBP is not making available to Tenderers any materials or information other than that contained or referred to in this RFT.
- 9.2. Where the RFT Details indicate that other information or materials will be made available to Registered Tenderers:
- (a) DIBP will provide Registered Tenderers with access to further information and material (in either electronic or physical form) which may be relevant to this RFT, on condition that before being given access to the information, the Registered Tenderer must execute and provide to DIBP a Confidentiality Deed Poll, in substantially the form set out in **Appendix B of Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll); and
 - (b) Registered Tenderers requiring access to the industry brief must contact the Contact Officer no later than one (1) Business Days before the Closing Time to obtain that material.

10. Format for Tenders

- 10.1. Subject to **clauses 18** and **32**, Tenders should be completed in accordance with **Attachment F** (Tenderer Response Forms), noting the following:
- (a) all applicable information should be provided in response to the information requirements set out in **Attachment F** (Tenderer Response Forms);
 - (b) all responses, including attachments, should be written in English;
 - (c) all word limits should be adhered to; and
 - (d) where a response to a particular requirement is covered in another section of the Tender, a cross reference to that section should be provided.
- 10.2. Tenderers may include additional or support materials (as supplements or attachments to the Tender response information in **Attachment F** (Tenderer Response Forms) noting that Tenderers are discouraged from including generic marketing information that does not relate to the information requested in this RFT and/or does not address the Evaluation Criteria.
- 10.3. Tenderers who wish to:
- (a) negotiate any of the provisions of **Attachment B** (Statement of Requirement) or **Attachment D** (Draft Contract); or
 - (b) claim confidentiality in relation to any aspects of their Tender,
- should complete **Form 6** (Details of Confidential Information) in **Attachment F** (Tenderer Response Forms) and **Form 9** (Statement of Non-Compliance) in **Attachment F** (Tenderer Response Forms).
- 10.4. **Clause 10.1** does not limit or add to the Mandatory Content and Format Requirements as set out in **Part 1**.

11. Part Tenders

- 11.1. Unless otherwise indicated in the RFT Details, Tenderers are to offer to provide the entire Services and no Tenders for only part of the Services will be allowed. DIBP will exclude from further consideration any Tender which offers only part of the Services.

Note to Tenderers: THIS IS A MINIMUM CONTENT AND FORMAT REQUIREMENT.

- 11.2. Not Used.
- 11.3. DIBP intends to select a single Tenderer for all of the Services.

12. No Consortia or Joint Tenders; Subcontract arrangements

- 12.1. A Tender is required to be submitted by a single legal entity that exists at the Closing Time and who proposes to contract with DIBP for provision of the Services.

- 12.2. The successful Tenderer (if any) may, with the prior consent of DIBP, subcontract part of the Services in accordance with **Attachment D** (Draft Contract). The successful Tenderer (if any) must ensure that its Subcontractors, when undertaking any part of the Services, are aware of their obligations to comply with the same terms and conditions of Contract as that imposed on the successful Tenderer.
- 12.3. The successful Tenderer to this RFT (if any) must:
- (a) agree to the public disclosure of the names of any Subcontractors engaged to perform any of the Services;
 - (b) inform relevant Subcontractors that their participation in fulfilling any of the Services may be publicly disclosed.
- 12.4. The successful Tenderer (if any) must ensure that its Subcontractors, when undertaking any part of the Services, are aware of their obligations to comply with the same terms and conditions of the Contract as that imposed on the successful Tenderer.

13. Alternative Tenders

- 13.1. DIBP may consider an alternative approach or solution that does not meet all aspects of the Services as long as the Tenderer also submits a separate Tender containing a solution which does so. Tenderers should provide in any alternative Tenders a response which clearly:
- (a) complies with any Conditions for Participation and Minimum Content and Format Requirements set out in **Part 1**;
 - (b) proposes a solution which satisfies the functionality and performance requirements of the Services;
 - (c) separately identifies, in detail, the proposed alternative approach or solution;
 - (d) specifies each instance of change from the Services;
 - (e) states the reasons for each instance of change; and
 - (f) demonstrates that the proposed alternative approach or solution is more beneficial to DIBP than the approach specified in this RFT.
- 13.2. Failure to provide this information may result in DIBP not considering the alternative Tender.

14. Disclosure

- 14.1. The Tenderer should disclose in the completed Tenderer Declaration at **Form 2** of **Attachment F** (Tenderer Response Forms) all relevant information, including any regulatory issues, litigation, arbitration, mediation, conciliation or proceeding, or any investigations (**Proceedings**), that, to the best of the Tenderer's knowledge and belief after having made proper enquiry, are taking place, pending or threatened, against it or a Related Body Corporate where such Proceedings will or have the potential to impact adversely upon either:
- (a) the Tenderer's capacity to perform and fulfil its obligations if contracted as a result of the RFT Process; or

(b) the Tenderer's reputation.

- 14.2. In circumstances where there are no Proceedings as detailed in **clause 14.1**, Tenderers should declare in the completed Tenderer Declaration at **Form 2 of Attachment F** (Tenderer Response Forms) that there are no Proceedings (as defined in **clause 14.1**).
- 14.3. DIBP will consider the Tenderer's response to this **clause 14**, and the commercial, technical or financial capacity of the Tenderer or any Subcontractor proposed in the Tender, including the existence of any breach or default or alleged breach or default of any agreement, order or award building upon the Tenderer as part of the evaluation.

15. Issue by DIBP of Addenda and Notices

- 15.1. DIBP may vary, supplement or clarify this RFT at any time, by issuing notices and other information as addenda posted on the page for this RFT on AusTender, prior to the Closing Time.
- 15.2. AusTender will notify Tenderers who have registered and downloaded this RFT documentation via email of the issue of any addenda. It is in the interest of Tenderers to ensure they have correctly recorded their contact details prior to downloading RFT documentation. If Tenderers have not recorded their details correctly, they should amend their details and download this RFT documentation again. If a Tenderer has obtained RFT documentation other than from AusTender, they should visit AusTender, register as a user and download this RFT documentation.
- 15.3. Tenderers are required to log in to AusTender and collect addenda as notified.
- 15.4. The Commonwealth of Australia and DIBP will accept no responsibility if a Tenderer fails to become aware of any addendum notice which would have been apparent from a visit to the AusTender page for this RFT. A Tenderer will not be allowed to amend its Tender as a result of its failure to be aware of any issued addenda.
- 15.5. Each addendum forms part of this RFT upon issue.
- 15.6. If a Tenderer finds or reasonably believes it has found any discrepancy, error, ambiguity, inconsistency, omission or misleading statement (error) in this RFT, or in any other information given or made available by DIBP, the Tenderer should promptly notify the Contact Officer in writing setting out the error in sufficient detail. Any consequential amendment of this RFT or information provided by DIBP will be made available to all Tenderers in accordance with this **clause 15**.

16. Issue by DIBP of Requests for Clarification

- 16.1. If DIBP requires clarification of information contained in a Tender, it will request clarification from the Tenderer in writing. DIBP will not accept information provided in response to a request for clarification if that information alters the original Tender in any material respect. If the Tenderer fails to supply clarification to the satisfaction of DIBP, DIBP may exclude the Tender from further consideration.

- 16.2. Tenderers should:
- (a) respond to any request for clarification within the time period and in the format specified by DIBP;
 - (b) ensure that clarifying information provided answers DIBP's enquiry and is fully consistent with the Tender submitted by the Tenderer; and
 - (c) not seek to materially alter any aspect of their Tender by providing additional information to DIBP.
- 16.3. DIBP may require the Tenderer to submit similar information to that required by this RFT in respect of any proposed Subcontractors if that information was not already required to be included in the Tender by this RFT.
- 16.4. The Tenderer should not interpret a request to clarify the Tender as being an indication that its organisation will or will not be the preferred Tenderer. The Tenderer should treat all contacts as strictly confidential and not disclose the details of any contacts to any third parties. A Tenderer's failure to observe confidentiality may result in the exclusion of their Tender from further consideration.

17. Corrections by a Tenderer After Lodgement

- 17.1. If, after submission of a Tender but before the Closing Time, a Tenderer becomes aware of any discrepancy, error or omission in the Tender and wishes to lodge a correction or additional information, it must resubmit its whole Tender in accordance with this RFT, clearly stating that the Tender is a replacement Tender. Where more than one Tender has been submitted, DIBP will evaluate the last submitted Tender.
- 17.2. DIBP is not under any obligation to consider any corrections or additional information provided after the Closing Time. DIBP will consider this material only where it considers it appropriate to do so.

18. Unintentional Errors of Form

- 18.1. An unintentional error of form is an error that DIBP is satisfied:
- (a) represents incomplete information not consistent with the Tenderer's intentions and, if relevant, capabilities at the time the Tender was lodged; and
 - (b) does not materially affect the competitiveness of the Tenderer's bid.
- 18.2. If DIBP considers that there are unintentional errors of form in a Tender, DIBP may request, in its sole and absolute discretion, the Tenderer to correct or clarify the error by lodging a correction or additional information in writing in accordance with the direction of DIBP, but DIBP will not permit any material alteration or addition to the Tender.
- 18.3. If DIBP provides any Tenderer with the opportunity to correct errors of form, it will provide the same opportunity to all other Tenderers that are in the same position.

19. Compliance

- 19.1. Subject to clause 18, a Tender that does not:

- (a) satisfy the Conditions for Participation (see RFT Details of **Part 1**); or
- (b) satisfy the Minimum Content and Format Requirements (see RFT Details of **Part 1**),

will be automatically excluded from consideration.

- 19.2. Without limiting DIBP's rights to seek clarifications, a Tender that contains non-compliances (in the Tenderer's completed Statement of Non-Compliance set out in **Form 9 of Attachment F** (Tenderer Response Forms)) that DIBP considers in its absolute discretion are material, may be excluded from consideration as being incomplete or clearly not competitive.

20. Presentations, Interview and Tenderer Site Visits

- 20.1. DIBP may, at its sole discretion, require the Tenderer to give a presentation regarding its Tender, attend an interview and/or host a site visit to the Tenderer's premises (or other premises where the Services will be provided). Such requirements will be at DIBP's sole discretion.
- 20.2. Any costs incurred by the Tenderer in relation to any presentations, interview or site visits will be borne by the Tenderer.

21. Pricing

- 21.1. Tenderers should provide full details of their proposed price structure in **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms) to allow DIBP to determine whether prices are reasonable in the context of the Commonwealth assessment of value for money. This document should be included in a separate electronic file when the Tender is lodged and no pricing should be included in any other part of the Tender.

- 21.2. s47C
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- 21.3. Tenderer prices should cover all costs associated with implementation, supply, delivery, installation, connection, testing, licensing, coordinating and administering the Services in accordance with **Attachment B** (Statement of Requirement) and the **Attachment D** (Draft Contract), including supplier overheads and finance costs, return on equity and any other development costs.

- 21.3.1. If the Tender is an alternative Tender, the Tenderer should provide the price differential for any alternative solutions.

- 21.4. DIBP will not pay any costs for any aspect of the Services unless these are clearly articulated by the Tenderer prior to entering into any Contract.

- 21.5. Information in the Pricing Schedule at **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms) should:

- (a) be inclusive of all charges, expenses and Taxes, subject to the requirements regarding Goods and Services Tax (**GST**);
 - (b) be identified in both GST inclusive and GST exclusive terms;
 - (c) apply for the duration of the Tender Validity Period; and
 - (d) contain all additional information on price required by this RFT.
- 21.6. Prices should be in Australian dollars. However hedging of funds is not in accordance with current Australian Government policy and therefore Tenderers may submit pricing in currency other than AUD. Where any portion of the Pricing Schedule is in foreign currency, Tenders should clearly specify the currency being used. Tenderers should not convert any relevant amounts of foreign currency into Australian dollars. In evaluating the Tenderer's pricing response to **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms), DIBP will apply the relevant exchange rate published by the Reserve Bank of Australia at the Closing Time.
- 21.7. All assumptions or other caveats on which the Tender is based and the effect of the assumptions or other caveats on prices, as well as information or events required to remove assumptions and caveats on prices, are to be included in the Tenderer's completed Pricing response at **Form 5** (Tenderer's Pricing response) of **Attachment F** (Tenderer Response Forms).
- 21.8. Any Tender in which prices are not clearly and legibly stated may be excluded from consideration.

22. No Contract; Disclaimer; Acceptance of Tenderer's Offer

- 22.1. This RFT is an invitation to treat and is not to be taken as an offer to enter into a contract, or any sort of recommendation, nor does it include any tax, commercial or investment advice.
- 22.2. Without limiting the legal effect of:
- (a) any Deed of Confidentiality (including the Confidentiality Deed Poll at **Appendix B** to **Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll) lodged by the Tenderer; and
 - (b) the Tenderer Declaration (**Form 2** of **Attachment F** (Tenderer Response Forms) lodged by the Tenderer,
- and subject to this **clause 22**, nothing in this RFT will be construed to create any binding contract (express or implied) between DIBP and the Tenderer unless and until a contract is entered into with the successful Tenderer(s) (if any). The Tenderer is, however, required to comply with obligations expressed to apply to them in this RFT.
- 22.3. Lodging a Tender will constitute an offer in accordance with this RFT by the Tenderer.
- 22.4. DIBP may accept the whole or any part of the Tenderer's offer. Neither the lowest priced Tender, nor any Tender, will necessarily be accepted by DIBP.

- 22.5. Despite the evaluation of Tenders resulting in the selection of a preferred Tenderer, the acceptance or purported acceptance of any Tender by DIBP is subject to the execution of a Contract, in a form acceptable to DIBP, between the preferred Tenderer and DIBP.
- 22.6. The issue of this RFT (and/or the submission of any Tender) does not create any legal relationship or obligation (or quasi-legal relationship or obligation) in respect of:
- (a) the process to be followed (including in relation to evaluation and assessment of any Tender); or
 - (b) entering into a Contract with the Tenderer.
- 22.7. Any conduct or statement whether prior to or subsequent to the issue of this RFT is not, and must not be deemed to be:
- (a) an offer to contract by DIBP; or
 - (b) a binding undertaking of any kind by DIBP on the basis or any promissory estoppel, quantum meruit, quantum valebat, or any other contractual, quasi-contractual or restitutionary grounds or in negligence.
- 22.8. Despite **clause 22.6** and **clause 25**, if a court finds there to be a contract between DIBP and a Tenderer regarding the conduct of this RFT Process, the Tenderer agrees that DIBP's general liability in connection with this RFT Process (e.g. for negligence, breach of statute or otherwise), and any breach of the terms of such a contract is limited to the Tenderer's direct substantiated costs of participation in the RFT Process, not exceeding an amount of \$100,000 (excluding GST).
- 22.9. For the avoidance of doubt, DIBP will not be, and is not liable for any incidental, indirect or consequential loss or damage including loss of actual or anticipated revenue or profits, loss of business opportunity, loss of goodwill or other losses of the Tenderer.

23. Outcome of the RFT Process

- 23.1. DIBP proposes to enter into an agreement with the successful Tenderer (if any) substantively in the form of the Contract in **Attachment D** (Draft Contract) for the provision of the Services.

24. Debriefing

- 24.1. If a Tender is unsuccessful, the Tenderer will be notified in writing and offered an opportunity for a debriefing. If the Tenderer would like a debriefing, it should contact the Contact Officer to arrange a suitable time.
- 24.2. Tenderers will be debriefed against the Evaluation Criteria set out in **Part 3**. In accordance with Commonwealth policy, a Tenderer will not be provided with information concerning other Tenders or Tenderers, except for publicly available information.

25. Cost of preparing and submitting a Tender

- 25.1. Participation in any stage of the RFT Process, or in relation to any matter concerning this RFT, will be at the Tenderer's sole risk, cost and expense. DIBP will not be responsible in any circumstance for any costs or expenses incurred by the Tenderer or any other person in responding to or taking other action in relation to the RFT Process even if DIBP exercises or fails to exercise any of its rights under this RFT, or in respect of any discussions, negotiations, enquiries in relation to taking part in this RFT Process or any work undertaken by the Tenderer its Tender is lodged.
- 25.2. Without limiting clauses 22.3 and 25.1, but subject to clause 22.2, DIBP is not liable to the Tenderer on the basis of any promissory estoppel, quantum meruit, quantum valebat, or any other contractual, quasi-contractual or restitutionary grounds or in negligence as a consequence of any matter or thing relating to or incidental to a Tenderer's participation in the RFT Process, including (without limitation):
- (a) the procurement process for this RFT;
 - (b) where a Tenderer is not successful under the RFT Process;
 - (c) where DIBP varies, suspends or terminates the RFT Process or negotiates with a Tenderer; or
 - (d) where DIBP exercises, or fails to exercise, any of its rights under or in relation to this RFT.

26. Intellectual Property Rights in Tender Documents

- 26.1. All Intellectual Property Rights in this RFT are vested in the Commonwealth.
- 26.2. The Tenderer is permitted to use this RFT for the purpose only of compiling its Tender and, in the case of the Tenderer(s) selected through this RFT Process, for negotiating Contract with DIBP.
- 26.3. The Tenderer agrees that all Tenders become the property of DIBP and that DIBP, and anyone assisting DIBP, may copy, adapt, modify, disclose, communicate or do anything else to all material contained in the Tender which DIBP considers necessary for the purpose of:
- (a) evaluating or clarifying the Tender (including any subsequent offer);
 - (b) negotiating any resultant Contract with the Tenderer;
 - (c) managing any resultant Contract with the Tenderer;
 - (d) complying with any Law;
 - (e) referring any material suggesting collusion by Tenderers to the Australian Competition and Consumer Commission (**ACCC**) and the use by the ACCC of that material to conduct any review it deems necessary;
 - (f) providing information to another person in the situations specified in **clause 27.4 or 27.5** (Confidentiality); and
 - (g) anything else related to the above purpose or otherwise to the RFT Process, including audit and complying with governmental and parliamentary reporting requests and requirements.

- 26.4. However, **clause 26.3** does not transfer ownership of any intellectual property rights in the information contained in the Tender to DIBP (these remain vested in the person with the original ownership of that intellectual property).

27. Confidentiality

General

- 27.1. Tenderers acknowledge that DIBP, as a non-corporate Commonwealth entity, is subject to a number of specific accountability requirements, which support internal and external scrutiny of its tendering and contracting processes. These include:
- (a) the requirement to publish details of relevant entity agreements and contracts with an estimated value of \$10,000 or more on AusTender, within six (6) weeks of entering into the agreement or contract;
 - (b) the requirement to publish details of relevant standing offers, regardless of value, on AusTender, within six (6) weeks of entering into the agreement;
 - (c) the requirement to report details of all Commonwealth agreements, standing offers and contracts valued at \$100,000 or more, which have not been fully performed or which have been entered into during the previous 12 months, on the internet with access through the Department's home page, and identify confidentiality requirements in accordance with the Senate Order on Department and Agency Contracts, including:
 - i. name of the service provider and the subject matter of the agreement, standing offer or contract;
 - ii. total value of the agreement, standing offer or contract; and
 - iii. whether the agreement, standing offer or contract contains clauses that are confidential, and if so, the reasons for confidentiality;
 - (d) the requirement to publish information about certain procurements in Annual Reports;
 - (e) the requirement to make available, on request, the names of any Subcontractors engaged to perform the Services in relation to a Commonwealth agreement, standing offer or contract (as such, Tenderers should inform all potential Subcontractors that their participation in fulfilling a Commonwealth agreement, standing offer or contract may be publicly disclosed);
 - (f) disclosure requirements under the *Freedom of Information Act 1982* (Cth);
 - (g) compliance with record keeping policies, standards and guidelines; and
 - (h) compliance with record keeping obligations under the *Archives Act 1983* (Cth).

Disclosure to Parliament and its Committees

- 27.2. Tenderers acknowledge that the Parliament and its Committees have the power to request or require the disclosure of Commonwealth agreements and contract information to enable them to carry out their functions.

DIBP's confidentiality obligations

- 27.3. Subject to this RFT Process and **clauses 27.4** and **27.5**, DIBP will endeavour to treat the following information as confidential:
- (a) all Tenders received prior to the entering into of a Contract;
 - (b) all unsuccessful Tenders, after the execution of a Contract; and
 - (c) all successful Tenders (if any), after the execution of a Contract but only to the extent that:
 - i. the successful Tenderer (if any) requests that specific information in its Tender be kept confidential; and
 - ii. DIBP has determined that specific information is to be kept confidential in accordance with Department of Finance guidance entitled 'Confidentiality throughout the Procurement Cycle' and has agreed, pursuant to the Contract with the successful Tenderer (if any), to keep that information confidential.

Limitation of obligation of confidentiality

- 27.4. The obligation of confidentiality in **clause 27.3** does not apply if the Confidential Information:
- (a) is disclosed by DIBP to its Personnel and contractors solely in order to conduct this RFT Process, evaluate the Tender and during contract negotiations;
 - (b) is disclosed to DIBP's internal management Personnel or auditors, solely to enable effective management or auditing of this RFT Process and contract related activities;
 - (c) is disclosed by DIBP to the responsible Minister;
 - (d) is disclosed by DIBP, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - (e) is shared by the Commonwealth within the Commonwealth's organisation, or with another Agency, where this serves the Commonwealth's legitimate interests;
 - (f) is authorised or required by Law to be disclosed;
 - (g) is disclosed to meet DIBP's reporting or accountability requirements including, without limitation:
 - iii. under the *Public Governance, Performance and Accountability Act 2013* (Cth) or other legislation;
 - iv. to the Australian National Audit Office or any other auditor appointed by DIBP;
 - v. in accordance with the provisions that require notification of Commonwealth agreements, contracts and standing offers on the AusTender website (www.tenders.gov.au);
 - vi. to the Commonwealth Ombudsman; or
 - (d) is in the public domain otherwise than due to a breach of **clause 27.3**; or
 - (e) is disclosed with the consent of the Tenderer.

- 27.5. DIBP may provide any information supplied by a Tenderer in its Tender or as part of this RFT Process to any other Commonwealth Agency to assist that Agency to determine if it wishes to take advantage of the Tenderer's offer to provide the Services to that Commonwealth Agency. The provisions of this **clause 27** will apply in respect of the relevant Commonwealth Agency as if references to DIBP were references to that Commonwealth Agency.

Preservation of confidentiality

- 27.6. Once the RFT Process has been finalised, DIBP will not keep such information provided by the successful Tenderer confidential unless it, in its absolute discretion, considers it appropriate to do so having regard to the matters covered by the Commonwealth's *Guidance on Confidentiality in Procurement* (see also clause 47 (Confidentiality and privacy) of **Attachment D** (Draft Contract)).

DIBP Confidential Information

- 27.7. DIBP may provide additional information in relation to this RFT only to the Tenderer once it has registered to receive this RFT. Some of this information may be DIBP Confidential Information.
- 27.8. Before DIBP will provide the potential Tenderer with information referred to in **clause 27.5** the potential Tenderer must execute and submit a Confidentiality Deed Poll substantially in the form of **Appendix B to Attachment E** (Industry Briefing Registration Form and Confidentiality Deed Poll) (to be provided by DIBP, relating to the use and non-disclosure of DIBP Confidential Information). If the potential Tenderer wishes to receive this information it should submit the Confidentiality Deed Poll in electronic form to the Contact Officer as soon as possible after the release of this RFT, to allow sufficient time to address the information provided by DIBP in its Tender. DIBP will not be obliged to provide the potential Tenderer with any DIBP Confidential Information if the potential Tenderer's Confidentiality Undertaking is received by DIBP less than four (4) days prior to the Closing Time.

28. Conflict of Interest

- 28.1. The Tenderer should not, and should ensure that its Personnel do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of DIBP and the Tenderer's interests during this RFT Process. A conflict of interest may arise where there is an affiliation or interest that might prejudice, or be seen to prejudice, a person's impartiality.
- 28.2. Tenderers are required to immediately notify DIBP if the Tenderer becomes aware of an actual or potential conflict of interest, concerning the Tenderer or a Related Body Corporate in respect of this RFT, its Tender or the provision of the Services under any contract arising from this RFT Process, at any time before the completion of the RFT Process which is not fully disclosed in its Tender (see clauses 5 and 11 of the Tenderer Declaration set out at **Form 2** of the **Attachment F** (Tenderer Response Forms)). A conflict of interest may exist if:

- (a) the Tenderer or any of its Personnel or Subcontractors have a relationship (whether professional, commercial or personal) with any personnel in DIBP; or
- (b) the Tenderer has a relationship with, and obligations to, an organisation which would affect the performance of the Services or would bring disrepute to or embarrass DIBP; or
- (c) the Tenderer or any of its Personnel or Subcontractors have a relationship which could affect DIBP's security.

28.3. If a Tenderer has or may have an actual or potential conflict of interest, DIBP may in its sole and absolute discretion:

- (a) enter into discussions to seek to resolve the conflict of interest;
- (b) impose conditions on the Tenderer for the management of the actual or potential conflict of interest;
- (c) disregard the Tender submitted by such a Tenderer; or
- (d) take any other action which it considers appropriate.

28.4. If a Tenderer is unwilling or unable to enter into discussions under **clause 28.3(a)**, comply with the conditions imposed under **clause 28.3(b)** or otherwise resolve the actual or potential conflict of interest in a manner satisfactory to DIBP, DIBP may then exclude the Tender from further consideration (including terminating any contract negotiations).

28.5. If at any time prior to entering into a Contract for the Services, an actual or potential conflict of interest arises or may arise for any Tenderer, other than that already disclosed, that Tenderer should immediately notify DIBP in writing.

29. Public Statements

29.1. Tenderers may not make any public statements (by means of advertisement or otherwise) in relation to this RFT, or any subsequent Contract arising out of this RFT, without the prior written consent of DIBP. However, nothing in this **clause 29** is to be read as limiting a Tenderer's right to enter into public debate or criticism of the Australian Government, its Agencies, or Personnel.

30. Ethical Dealing

30.1. The Tenderer must not:

- (a) lodge a Tender that has been compiled with improper assistance of current or former DIBP Personnel or uses information improperly obtained or in breach of an obligation of confidentiality;
- (b) engage in misleading or deceptive conduct in relation to Tenders or the RFT Process;
- (c) engage 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;
- (d) attempt to solicit information from or influence improperly any DIBP Personnel, or violate any applicable Laws or Commonwealth policies

regarding the offering of inducements in connection with the RFT Process;
or

(e) otherwise act in an unethical or improper manner, or contrary to any Law.

30.2. DIBP may exclude from consideration any Tender lodged by a Tenderer that, in DIBP's opinion, has engaged in any behaviour contrary to **clause 30.1** in relation to the RFT Process. This right is in addition to any other remedies DIBP may have under Law or in any Contract with the successful Tenderer (if any).

31. Acknowledgement and Disclaimer

31.1. The Tenderer acknowledges and agrees that:

- (a) by lodging a Tender it accepts the conditions set out in this RFT;
- (b) lodgement of their Tender on time and in accordance with these Terms and Conditions is entirely their responsibility;
- (c) DIBP will not be liable for any Loss incurred by Tenderers or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT is not received on time, is corrupted or altered or otherwise not received as sent, cannot be read or decrypted, or has its security or integrity compromised;
- (d) DIBP does not warrant that unauthorised access to information and data transmitted via the internet will not occur (Tenderers should take their own measures to protect information transmitted electronically);
- (e) under subsection 137.1 of the *Criminal Code Act 1995* (Cth), giving false or misleading information to the Commonwealth is a serious offence;
- (f) the Tenderer is deemed to have:
 - i. examined this RFT, any documents referred to in it, and any other information made available in writing by DIBP to Tenderers for the purpose of tendering;
 - ii. examined all further information which is obtainable by the making of reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its Tender;
 - iii. satisfied itself as to the correctness and sufficiency of its Tender, including its Tendered prices;
 - iv. obtained independent advice on the effect of all relevant legislation in relation to the Tenderer's participation in this RFT; and
 - v. examined the AusTender Terms of Use which are obtainable on AusTender; and
- (g) DIBP may reject any Tender which is made subject to any due diligence or other investigation to be performed after a Tender is submitted.

31.2. All information (whether written, oral or in any other form) which has been and may subsequently be made available to the Tenderer is provided on the following conditions:

- (a) in deciding to lodge or not lodge a Tender, or in the interpretation of this RFT, the Tenderer does not rely on:
 - i. any representation (whether oral or in writing) other than as expressed in this RFT; or
 - ii. other conduct of DIBP or DIBP Personnel;
- (b) any information contained in this RFT or otherwise provided by DIBP may not be accurate and/or may change;
- (c) where any such information relates to future matters, no steps have been taken to verify that the information is based upon reasonable grounds, and no representation or warranty, expressed or implied, is made by DIBP, DIBP Personnel or contractors that the statements contained in this RFT or otherwise provided by DIBP will be achieved;
- (d) this RFT is designed to reflect and summarise information concerning DIBP's Services only and is not a comprehensive description of it;
- (e) neither the delivery of this RFT nor any Contract made subsequent to this RFT will imply that there has been no material change since the date of this RFT or since the date as at which any information contained in this RFT is stated to be applicable;
- (f) except as required by Law and only to the extent so required, DIBP, DIBP Personnel and contractors will not be liable to any person or body for any Loss arising from any information or representations, actual or implied, contained in or omitted from this RFT or other information provided by DIBP, or by reason of any reliance by any person or body on any such information or representation; and
- (g) the Tenderer should seek its own professional advice as appropriate and should not construe this RFT or other information provided by DIBP as investment, legal or tax advice.

31.3. The Tenderer is responsible for all costs and expenses related to the preparation and lodgement of their Tenders, any subsequent negotiations and any other action or response in relation to this RFT see **clause 25**.

32. DIBP's Rights

- 32.1. Notwithstanding anything else contained in this RFT or limiting its rights at Law or otherwise, DIBP may:
- (a) vary the terms of this RFT, or the structure, requirements or processes referred to in this RFT at any time;
 - (b) vary the timing referred to in this RFT;
 - (c) determine at any stage or stages after the Closing Time, short list(s) of Tenderers on any basis that DIBP considers appropriate;
 - (d) cease, suspend or vary the RFT Process, or any part of it, where this is in the public interest;
 - (e) seek additional information from any Tenderer or third party at any time (including but not limited to from or in respect of a Tenderer's proposed Subcontractors or agents);

- (f) provide additional information to all Tenderers at any time (and where the information is provided after the Closing Time, allow the submission of revised Tenders);
- (g) seek and/or contact any contacts or referees other than those proposed by Tenderers;
- (h) seek amended Tenders or call for new Tenders;
- (i) add to, alter, delete or exclude any part of the Services;
- (j) select and negotiate with one or more Tenderer (including but not limited to parallel negotiations) and/or discontinue any of those negotiations at any time for any reason;
- (k) publish or disclose the names of successful Tenderers or those who are shortlisted as a result of evaluations;
- (l) enter into a contract on terms different to those in **Attachment D** (Draft Contract);
- (m) exclude a Tender or reserves the right to reject a Tender, at its absolute discretion, if there has been a significant deficiency in the performance of a substantive requirement or obligation by the Tenderer under a prior agreement; and
- (n) allow or not allow a related entity to take over a Tender in substitution for the original Tenderer.

32.2. Without limiting its other rights under this RFT or at Law, if DIBP concludes that the preferred Tenderer has retracted, or attempts to retract, undertakings under which material technical, commercial, financial, corporate, relationship management, legal or contractual issues were resolved during negotiations, DIBP may choose to not proceed with that Tender and/or exercise another right given by this RFT.

32.3. DIBP will not be liable or in any way responsible for any Loss incurred by a Tenderer because DIBP:

- (a) exercises or fails to exercise any of DIBP's rights under this RFT; or
- (b) fails to inform a Tenderer of its exercise or non-exercise of those rights.

32.4. DIBP may reject any Tender lodged by a Tenderer that is engaging or has engaged in any conduct that contravenes any Laws or contravenes the Terms and Conditions as set out in this RFT.

32.5. Any request or invitation by DIBP to negotiate all or any part of a Tender will not be, nor be deemed to be, a representation by DIBP that the Tenderer's Tender will be, or is likely to be, accepted.

33. Right to terminate

33.1. Without limiting its rights at Law or otherwise, DIBP may terminate this RFT Process at any time if:

- (a) DIBP does not receive any Tenders in response to this RFT;
- (b) DIBP does not receive any Tenders in response to this RFT which meet the requirements outlined in **Attachment B** (Statement of Requirement);

- (c) after evaluating the Tenders received in response to this RFT DIBP determines that entering into a contract with any Tenderer does not represent an effective, efficient, ethical and economical use of resources;
- (d) in the opinion of DIBP, it is unlikely that negotiations with any Tenderer will achieve a value for money outcome for the Commonwealth; or
- (e) DIBP determines it is in the public interest to do so.

34. Participation of Other Commonwealth Agencies in this RFT process

- 34.1. This **clause 34** applies where the RFT Details indicate that, at the time of issuing this RFT, DIBP wishes or intends to facilitate other Commonwealth Agencies procuring the Services from the successful Tenderer (if any) in the future.
- 34.2. The successful Tenderer (if any) will be required to offer to provide the Services to other Commonwealth Agencies on substantially the same terms and conditions as it provides them to DIBP (including price i.e. Service Charges). Any Commonwealth Agency will be able to accept this offer by giving a notice to the successful Tenderer (if any). This will create a separate agreement between the successful Tenderer (if any) and the Commonwealth Agency issuing the notice. Tenderers are referred to **Attachment D** (Draft Contract) for further details.
- 34.3. DIBP makes no warranty, representation or assurance that any or any number of Commonwealth Agencies, or any particular Commonwealth Agency, will accept the offer of the successful Tenderer (if any) to provide the Services to other Commonwealth Agencies.
- 34.4. DIBP will not undertake any evaluation on behalf of any other Commonwealth Agency during its evaluation of this RFT. Other Commonwealth Agencies will undertake their own evaluation if and when they wish to consider the successful Tenderer's offer to provide the Services to it.
- 34.5. **Attachment B** (Statement of Requirement) sets out details of the other Commonwealth Agencies that wish to procure the Services. This information is based upon DIBP's understanding of the needs of those other Commonwealth Agencies as at the date of issue of this RFT, but **clause 34.2** applies to the provision of that information.
- 34.6. References to 'DIBP' or 'the Department' in this RFT should be interpreted as also including a reference to the other Commonwealth Agencies that wish to procure the Services (unless the contrary intention appears).

35. Commonwealth Centralised Procurement

- 35.1. Without limiting **clause 32**, Tenderers should note that it is Commonwealth policy to develop a centralised procurement system for the delivery of certain goods and services to Commonwealth departments and Agencies (**WoG Arrangements**), where it can be established that the centralised procurement of those goods and services could deliver savings to the Commonwealth.
- 35.2. The process of identifying such goods and services is ongoing. If the Commonwealth requires some or all of the same goods or services as the Services to be provided under a WoG Arrangement:

- (a) before the Closing Time - in which case DIBP reserves the right to discontinue this RFT process;
- (b) after the Closing Time but before a Contract is entered into with the successful Tenderer - in which case DIBP reserves the right to discontinue this RFT Process and not to proceed to enter into any Contract as a result of the RFT or to or to continue with this RFT Process and, if a Contract is entered into with the successful Tenderer, if any, apply the terms of the Contract dealing with WoG Arrangements; or
- (c) during the period of any Contract entered into as a result of this RFT - in which case DIBP may exercise its rights under the relevant Contract (which includes the right to terminate that arrangement for any reason by giving 30 days' notice to the successful Tenderer), without compensation for loss of potential profits.

36. Applicable Law

- 36.1. The Laws of the Australian Capital Territory apply to this RFT Process

37. Complaints

- 37.1. Any complaints arising out of the RFT Process should be directed to the Contact Officer in writing, clearly identifying the issue of concern and the facts and evidence which support the Tenderer's complaint.

38. Security, Probity, due diligence, financial and Other Checks

- 38.1.1. DIBP reserves the right to perform such security, probity, due diligence and/or financial investigations and procedures as DIBP, in its absolute discretion, may determine are necessary in relation to the Tenderer, its Personnel, Subcontractors or Related Body Corporate or consortium members and their respective officers, employees and subcontractors. The Tenderer agrees to provide at its cost, all reasonable assistance to DIBP in this regard.
- 38.1.2. All contracting, consultant and or service provider personnel who are determined to be IBP Workers are to undergo and obtain:
- (a) an Employment Suitability Clearance (**ESC**); and
 - (b) a Commonwealth Security Clearance (**CSC**) to the appropriate level, before accessing any premises or official or security classified material, or performing any services for DIBP.
- 38.1.3. The average time for an ESC is four (4) weeks and a CSC is six (6) weeks.
- 38.1.4. Any personnel offered by the Tenderer to perform the Services, who are determined to be IBP Workers, are to be made available to DIBP for the period of the Contract (including any extensions), while such personnel remain employed by or contracted to the Tenderer.
- 38.1.5. The security vetting processes are conducted to ensure that an individual is both eligible and suitable to be granted, as well as maintain, a security clearance. A clearance is basically an inquiry into and corroboration of a person's background, character and civic values.
- 38.1.6. ESCs are processed internally by the Department's Employment Suitability Clearance Team which makes a decision whether to grant an ESC. The

Australian Government Security Vetting Agency (**AGSVA**) processes CSCs and makes the decision whether to grant a CSC in accordance with the standards identified in the Australian Government Protective Security Policy Framework (PSPF). To comply with eligibility requirements of the PSPF, security clearance for access to security classified resources must not be provided to anyone who is not an Australian citizen.

- 38.1.7. DIBP or any third party authorised by DIBP, may perform probity and financial investigations and procedures as DIBP determines are necessary in relation to any Tenderer, its Personnel, Subcontractors or related entities including partners and their officers, employees and subcontractors.
- 38.1.8. Tenderers should promptly provide DIBP with such information or documentation that DIBP requires in order to undertake such investigations. DIBP may exclude a Tender from further consideration if the Tenderer does not promptly provide all reasonable assistance to DIBP in this regard, or based on the outcomes of the investigations or procedures. In agreeing to supply relevant financial information or statements, the Tenderer also agrees that the information supplied represents a true and fair statement of the affairs of the Tenderer.
- 38.1.9. Once a person is determined to be an IBP Worker, the person will be required to comply with the *Australian Border Force Act 2015* (Cth), and any directions issued to the relevant IBP Workers.
- 38.1.10. Directions and policies issued pursuant to the *Australian Border Force Act 2015* (Cth) with which IBP Workers are required to comply at the date of this RFT can be viewed at <https://www.border.gov.au/about/access-accountability/integrity>.

39. DIBP Information

- 39.1. Tenderers must not, and must ensure that Tenderer Personnel and its Subcontractors do not, either directly or indirectly record, divulge or communicate to any person any:
 - (a) Confidential Information concerning the affairs of DIBP, the Commonwealth or a third party acquired or obtained from DIBP; or
 - (b) document, data or information provided by DIBP in the course of the Tenderer preparing or amending a Tender and which DIBP indicates to Tenderers is confidential or which Tenderers know or ought reasonably to know is confidential.
- 39.2. DIBP information in the possession of the Tenderer must be stored in accordance with the minimum standards for that type of information, as defined in the PSPF. By submitting a Tender, Tenderers agree to grant DIBP the right for it, or its agent, to inspect premises to ensure compliance with storage requirements.
- 39.3. DIBP 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), and all copies of such information made by Tenderers, be:
 - (a) returned to DIBP - in which case Tenderers will be required to promptly return all such information to the address identified by DIBP; or

(b) destroyed by Tenderers - in which case Tenderers will be required to promptly destroy all such information and provide DIBP with written certification that the information has been destroyed.

39.4. DIBP may exclude from further consideration any Tender lodged by a Tenderer who has engaged in any behaviour contrary to this **clause 39**.

40. Compliance with Commonwealth policies

The Australian National Audit Office

40.1. The attention of Tenderers is drawn to the *Auditor-General Act 1997* (Cth), which provides the Auditor-General or an authorised person with a right to have, at all reasonable times, access to information, documents and records in the possession of a Commonwealth Agency.

40.2. Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Auditor-General Act 1997* (Cth) on its participation in this RFT Process and any subsequent Contract.

40.3. **Attachment D** (Draft Contract) contains a right of access by the Auditor-General, or an authorised person, to information, documents, records and DIBP assets, including those on the Tenderer's premises, which are related to the relevant Contract.

Privacy Legislation

40.4. Tenderers are advised that it is Commonwealth policy to ensure that there is no loss of privacy protection when a Commonwealth entity contracts for the delivery of the Services.

40.5. The *Privacy Act 1988* (Cth) establishes a national scheme providing for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by public and private sector organisations.

40.6. Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Privacy Act 1988* (Cth) on their participation in this RFT Process and any subsequent Contract.

40.7. **Attachment D** (Draft Contract) requires the Contractor to comply with the *Privacy Act 1988* (Cth). Tenderers selected as a result of this RFT Process will also need to agree to impose those same obligations on any Subcontractor engaged by the Tenderer.

Freedom of Information

40.8. The *Freedom of Information Act 1982* (Cth) gives certain rights to the community to access information in the possession of the Commonwealth, which may include any Tender submitted and any Contract resulting from this RFT Process and related documents. Access is only limited by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by DIBP and public authorities.

- 40.9. Tenderers should obtain, and will be deemed to have obtained, their own independent, professional advice on the impact of this legislation on their participation in this RFT Process.

Workplace Gender Equality

- 40.10. Tenderers are required to comply with their obligations under the *Workplace Gender Equality Act 2012* (Cth) and must not enter into any subcontracting arrangements with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the Act.
- 40.11. If a Tenderer, or any other party that the Tenderer proposes to deliver the Services, is currently named as non-compliant under the *Workplace Gender Equality Act 2012* (Cth), this is to be disclosed in its Tender. In this case, Tenderers will be required to obtain a letter of compliance from the Workplace Gender Equality Agency to be eligible for Commonwealth business. The letter of compliance may be attached to a Tender or provided separately prior to the Closing Time.

Disability Discrimination

- 40.12. Tenderers are required to comply with the *Disability Discrimination Act 1992* (Cth) in accordance with the National Disability Strategy 2010-2020.

Prohibition of Illegal Workers

- 40.13. Tenderers should note that it is DIBP policy not to contract with providers engaging Illegal Workers and the Tenderer Declaration contains a statement from the Tenderer confirming that it will comply with this policy.

Anti-Terrorism Measures

- 40.14. The Tenderer and any nominated Subcontractors proposed in the Tender must not at the Closing Time be listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth). This is a Condition for Participation. These Laws require any person who holds assets or funds belonging to a person or organisation on the list of persons and entities designated as terrorists to immediately freeze those assets. It is an offence to make any funds or assets available to a person or organisation on the list.
- 40.15. A consolidated list of such persons, entities and associated assets is maintained by the Department of Foreign Affairs and Trade under the *Charter of the United Nations (Dealing with Assets) Regulations 2008*. DIBP will not enter into a Contract with a person or organisation on the list referred to in **clause 40.14**.
- 40.16. The successful Tenderer (if any) will be required to comply with all applicable Laws dealing with the supply and/or export of goods, services and information to foreign nationals or institutions including under the *Customs Act 1901* (Cth) and the *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995* (Cth).

Trade Sanctions

- 40.16.1. Tenderers' attention is drawn to the United Nations Security Council (**UNSC**) sanctions regimes under the *Charter of the United Nations Act 1945* (Cth) and

the Australian autonomous sanctions regimes under the *Autonomous Sanctions Act 2011* (Cth).

- 40.16.2. Contractors to the Australian Government must not undertake an activity that is in breach of a UNSC sanction regime or Australian autonomous sanction regime in respect of a particular country, including:
- (a) making a sanctioned supply of export sanctioned goods;
 - (b) making a sanctioned import of import sanctioned goods;
 - (c) providing a sanctioned service;
 - (d) engaging in a sanctioned commercial activity;
 - (e) dealing with a designated person or entity;
 - (f) using or dealing with a controlled asset; or
 - (g) the entry into or transit through Australia of a designated person or a declared person.

Further information is available at <http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>.

Anti-money laundering

- 40.17. The successful Tenderer (if any) will be required to comply with any obligations applicable to it contained in the legislation arising from the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).
- 40.18. DIBP will not enter into any Contract with a person or organisation on the list, and Tenderers are required to declare that they are not listed (see the Tenderer Declaration).

Unpaid Employee Entitlements

- 40.19. The Tenderer may not have a judicial decision against it relating to employee entitlements (not including decisions which are under appeal), in respect of which the Tenderer has not paid the claim. Tenderers are required to declare that they have no such unsettled judgements (see the Tenderer Declaration set out in **Form 2 of Attachment F** (Tenderer Response Forms)).

Ombudsman

- 40.20. Tenderers' attention is drawn to the *Ombudsman Act 1976* (Cth), which provides rights of access to places occupied by Commonwealth contractors to conduct investigations at those places.
- 40.21. Tenderers should obtain, and will be deemed to have obtained, their own independent, professional advice on the impact of this legislation on their participation in this RFT Process.
- 40.22. **Attachment D** (Draft Contract) includes a right of access by the Ombudsman to the Tenderer's premises and/or relevant documents.

Competitive Neutrality

- 40.23. Competitive neutrality requires that Government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of public sector ownership.
- 40.24. Tenderers from the public sector which are a government business enterprise should identify themselves as such and demonstrate in the pricing of their Tender that the requirements of competitive neutrality have been met, including payment of relevant taxes and charges, rates of return and costs of funds. Compliance with the requirements of competitive neutrality may be tested by DIBP.

Fair Work Act 2009 (Cth)

- 40.25. Tenderers are required to comply with all relevant workplace relations Laws, including:
- (a) the *Fair Work Act 2009* (Cth) or any applicable workplace relations Laws;
 - (b) work health and safety Laws; and
 - (c) worker's compensation Laws.

Work health and safety

- 40.26. DIBP has obligations under the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) in relation to the maintenance of a safe workplace and safe systems of work. DIBP acts in strict compliance with its obligations.
- 40.27. The successful Tenderer (if any) will be required to act in such a way, so as not, by action or omission, to place DIBP in breach of its obligations under the WHS Act. The Tenderer should be aware that it may also have its own obligations under the WHS Act in relation to these matters with which strict compliance will be required.

Fraud Control

- 40.28. Tenderers' attention is drawn to the Australian Government's position on fraud control, set out in the Commonwealth Fraud Control Guidelines (available at: <http://www.ag.gov.au/CrimeAndCorruption/FraudControl/Pages/FraudControlFramework.aspx>).

Subcontracting

- 40.29. Where Subcontractors are specified in the Tender, the Tenderer is required to identify:
- (a) the Subcontractor's compliance or otherwise with the *Workplace Gender Equality Act 2012* (Cth); and
 - (b) whether the Subcontractor complies with the *Fair Work Act 2009* (Cth).
- 40.30. Tenderers' attention is drawn to the requirements in **Attachment F** (Tenderer Response Forms).

Archiving

- 40.31. Tenderers should be familiar with the requirements of record keeping in an outsourced environment, particularly the National Archives of Australia publication "Records Issues for Outsourcing". Copies can be downloaded from: http://www.naa.gov.au/Images/GDA25_tcm16-47736.pdf

Environmental policy and procurement

- 40.32. The Commonwealth aims to improve the implementation of ecologically sustainable development (**ESD**) within its Agencies.
- 40.33. In support of this aim, DIBP is committed to fostering the sustainable use of the Earth's resources and will implement and maintain an environmental management system to ISO14001, with the following key focus areas:
- (a) compliance with all relevant environmental legislation, regulations, policies and other initiatives to which it subscribes;
 - (b) integrating environmental management into business decision making at all levels;
 - (c) reducing cost through better resource usage and waste management;
 - (d) setting objectives and targets for continuous improvement;
 - (e) monitoring, reporting and reviewing achievements;
 - (f) exploring best practice and innovative environmental management approaches to the use of technology, property and related resources; and
 - (g) building an environmentally aware business culture.
- 40.34. See also the National Waste Policy and the Australian Packaging Covenant, copies of which are available at the Department of Environment website: <http://www.environment.gov.au/>.
- 40.35. DIBP's procurement activities are a key means of implementing its environmental policy.

Digital Service Standard

- 40.36. Tenderers' attention is drawn to the Digital Service Standard for all Services which are within the scope of the Digital Service Standard, as detailed by the Australian Government Digital Transformation Agency.

Web Content Accessibility Guidelines Version 2.0

- 40.37. The Australian Government is committed to improved web accessibility. The Tenderer will be required to ensure all online services are compliant with the latest version of the WCAG 2.0 available at <http://www.w3.org/TR/WCAG20/>.

Lobbying Code of Conduct

- 40.38. The Lobbying Code of Conduct is intended to promote trust in the integrity of government processes and ensure that contact between Lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. Lobbyists and Government representatives are expected to comply with the requirements of the Lobbying Code of Conduct (the "Lobbying Code" in accordance with their spirit, intention and purpose. The Lobbying Code requires that Government representatives shall not knowingly be a party to a lobbying activity where the Lobbyist is not registered on the Prime Minister & Cabinet's Register of Lobbyists. A copy of the Lobbying Code is available at: http://lobbyists.pmc.gov.au/conduct_code.cfm.
- 40.39. "Government representative" for the purposes of the Lobbying Code includes a person engaged as contractor or consultant by an Australian Government Agency whose staff are employed under the *Public Service Act 1999* (Cth).
- 40.40. Each Tenderer and its Subcontractors must not engage in, or procure or encourage others to engage in, activity which would result in a breach of the Lobbying Code or the Australian Public Service Commission (**APSC**) Circular 2008/4, Services relating to the Lobbying Code of Conduct and Post Separation Contact with Government.

Indigenous Procurement Policy

- 40.41. Tenderers should note that the Indigenous Procurement Policy applies or may apply to this RFT Process. More information on the Indigenous Procurement Policy can be found at <https://www.dpmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>.
- 40.42. In particular, Tenderers should note the purpose of the Indigenous Procurement Policy is to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see Indigenous Procurement Policy for further information).
- 40.43. In its Tender, each Tenderer is requested to detail how it will increase its:
- (a) purchasing from Indigenous enterprises (being an organisation that is 50 per cent or more Indigenous owned that is operating a business); and
 - (b) employment of Indigenous Australians,
- 40.44. Purchases from an Indigenous enterprise may be in the form of engagement of an Indigenous enterprise as a subcontractor, and / or use of Indigenous suppliers in the Tenderer's supply chain.

PART 3 - EVALUATION OF TENDERS

41. The Evaluation Process

Step 1 – Receipt and Registration of Tenders

- 41.1. As soon as practicable after the Closing Time, all Tenders will be downloaded from the relevant section of AusTender.
- 41.2. All Tenders received before the Closing Time will be registered on a procurement register.
- 41.3. Any Tenders received after the Closing Time and any disputes or issues regarding receipt of Tenders will be managed in accordance with **Part 2** of this RFT.

Step 2 – Initial Screening (against the Conditions of Participation and the Minimum Content and Format Requirements)

- 41.4. The Evaluation Committee (or other nominated DIBP personnel) will screen all Tenders to identify any that:
- (a) fail to comply with any Conditions for Participation as set out in **Part 1** (other than Condition for Participation 2, which will be assessed as part of Step 4);
 - (b) fail to comply with any Minimum Content and Format Requirements as set out in **Part 1**;
 - (c) contain unintentional errors of form (see **clause 18**); or
 - (d) are otherwise incomplete or non-compliant with the RFT.
- 41.5. The Evaluation Committee will exclude any Tender from further consideration which has not complied with all Conditions for Participation as set out in **Part 1** (other than Condition for Participation 2, which will be assessed as part of Step 4).
- 41.6. Subject to **clause 18** of this RFT (Unintentional Errors of Form), the Evaluation Committee will exclude any Tenders from further consideration that have not complied with all Minimum Content and Format requirements as set out in **Part 1**. DIBP expects that the Tender, including all attachments and supporting material, will be written in English and in any event takes no responsibility to translate or convert any response for the purposes of evaluating, scoring or otherwise determining whether a Tender is complete or competitive.
- 41.7. The Evaluation Committee may also exclude a Tender from further consideration where, in the Evaluation Committee's reasonable opinion, the Tender is:
- (a) incomplete or so deficient (e.g. it fails to provide a Pricing schedule, address technical details, or demonstrate a reasonable understanding of the Services or fails to provide relevant, complete and accurate information); or
 - (b) otherwise so clearly non-competitive,

that it is likely to be evaluated so as to represent no value for money for the Commonwealth. The Evaluation Committee may, however, decide to consider these Tenders and seek further clarification from the Tenderer if it believes that this is appropriate.

- 41.8. Screening is an ongoing process and the Evaluation Committee may decide during any stage of the Evaluation Process that a Tender falls within the categories described in this step and should therefore be excluded from further consideration.

Step 3 - Evaluation against the Technical Evaluation Criteria

- 41.9. For each Tenderer that passes Steps 1 and 2 above, the Evaluation Committee will consider all relevant information for each Technical Evaluation Criterion, as set out at **clause 42**, provided in each Tender and conduct an analysis against each Technical Evaluation Criterion.
- 41.10. Tenderers should note that in evaluating a Tenderer's response to each Evaluation Criterion, the Evaluation Committee may:
- (a) use any material included in a Tender in the evaluation of any Evaluation Criteria, including using material provide in response to one (1) Evaluation Criterion in the evaluation of other Evaluation Criteria; and
 - (b) take into account any information received from the Tenderer in accordance with **clauses 16** and this **clause 41.10**.
- 41.11. Tenderers should provide enough detail in their Tender against each Evaluation Criterion to ensure that the Evaluation Committee has a clear understanding of their offer and that all requirements have been addressed. Tenderers are advised that unclear or contradictory statements may result in a low scoring assessment.
- 41.12. After reviewing the Tenders, the Evaluation Committee (or other nominated DIBP Personnel) may, in its sole and absolute discretion:
- (a) visit Tenderers' (including Subcontractors') sites and facilities;
 - (b) trial the Tenderers' products or equipment it proposes to use in the provision of the Services;
 - (c) test the Tenderers' products or equipment it proposes to use in the provision of the Services in a DIBP environment;
 - (d) ask Tenderers to undertake presentations or demonstrations;
 - (e) have discussions or interviews with Tenderers in order to seek clarification of their Tenders;
 - (f) seek written clarification or information from any Tenderer on various aspects of their Tenders, whether or not similar information has been sought from other Tenderers;

- (g) ask Tenderers to provide further information to demonstrate their financial viability and commercial viability and the financial viability and commercial viability of Subcontractors;
- (h) consider information received from sources other than the Tenderer, including DIBP, ASIC, company searches/reports and Agencies;
- (i) enter into negotiations with any or all Tenderers;
- (j) obtain information regarding the capacity and capability of a Tenderer from referees nominated by the Tenderer or any other person contacted by DIBP, and/or undertake visits to, customers or Subcontractors of Tenderers, whether or not the customers are provided as referees by a Tenderer; and
- (k) conduct independent enquiries about any matter that may be relevant to the evaluation of a Tender including security, financial and probity checks in relation to the Tenderer, its Related Bodies Corporate, Personnel, Subcontractors and any related entities or their personnel and use the information obtained from those inquiries in its evaluation (and the Evaluation Committee may decide to exclude a Tender from further consideration if the Tenderer does not provide, at its cost, all reasonable assistance to Evaluation Committee in relation to such enquiries if requested by DIBP).

41.13. DIBP may choose to undertake the activities set out in **clause 41.12** in relation to some Tenderers only. Presentations, interviews, demonstrations and site visits may be subject to additional terms and conditions that are advised by DIBP to Tenderers who have been invited to participate in each activity.

41.14. Any costs incurred by the Tenderer in complying with clauses 41.12 or 41.13 will be borne by the Tenderer.

41.15. Following the conclusion of any site visits, presentations and/or referee checks and obtaining of further independent enquiries, the Evaluation Committee will, in light of the further information received, review and where applicable may revise scores for the Technical Evaluation Criteria set out at **clause 42**.

41.16. At any time during this Step 3 or after its completion, the Evaluation Committee may shortlist Tenders for progression to further steps of the Evaluation Process. The Evaluation Committee in its sole and absolute discretion will determine the number of Tenders on any shortlist.

Step 4 – Pricing Evaluation

41.17. This Step 4 may be conducted after or concurrently with the evaluation process described in Step 2 and Step 3.

41.17.1. If at any time during the evaluation, including after this Step 4 has commenced, a Tender has been excluded then this Step 4 may not be conducted on or may be ceased for (as applicable) that Tender.

41.18. The Evaluation Committee will undertake an assessment of the prices (i.e. Service Charges ^{s47C}) contained in Tenders. The Evaluation Committee may seek assistance from internal and/or external financial advisors if required.

- 41.19. In the evaluation process, DIBP may, in its sole and absolute discretion, make certain adjustments to the prices, including adjustments to account for the following matters, which may need balancing in order to establish a common basis for the comparison of Tenders, including (without limitation):
- (a) prices as per Pricing Schedules in **Form 5 of Attachment F** (Tenderer Response Forms);
 - (b) pricing flexibility;
 - (c) any other costs or discounts which form part of the Tenderer's offer;
 - (d) normalised and discounted cash flow;
 - (e) any assumptions or caveats attaching to the proposed prices;
 - (f) any alternative proposals or financial incentives offered by the Tenderer;
 - (g) Implementation costs;
 - (h) any risk relating to the prices;
 - (i) Transition out costs;
 - (j) cost of administering the Contract;
 - (k) costs associated with DIBP administering the Contract;
 - (l) whole of life costs and benefits; and
 - (m) other costs, if any, or financial impacts on DIBP that may arise from appointing a particular Tenderer.
- 41.20. DIBP may also undertake a sensitivity analysis including scenario modelling in evaluating prices.
- 41.21. Discounted cash flow may be used to estimate the net present value of amounts in future years of the Contract Period of the Contract, with all assumptions on costs, interest rates and related factors to be determined in the absolute discretion of DIBP.
- 41.22. In determining value for money, DIBP is obliged to satisfy itself that proposed prices offered are reasonable. The Tenderer agrees to provide access to such information as determined by DIBP in order to evaluate the reasonableness of its proposed prices.
- 41.23. If no assumptions or other caveats on pricing are included in the Tender, the Tenderer will be deemed to have represented that no assumptions or other caveats apply.
- 41.24. At any time during this Step 4 or after its completion, the Evaluation Committee may shortlist Tenders for progression to further steps of the Evaluation Process. The Evaluation Committee in its absolute discretion will determine the number of Tenders on any shortlist.
- 41.25. DIBP reserves the right, during the evaluation process, to ask all Tenderers (or, if Tenderers have been shortlisted, the shortlisted Tenderers) to submit new or revised pricing based on an alternative methodology.

- 41.26. DIBP also reserves the right to seek clarification on any pricing matters and to seek a Best and Final Offer in respect of pricing from each Tenderer (or, if Tenderers have been short-listed, shortlisted Tenderers) if it is deemed necessary to determine a clear value for money outcome for the Commonwealth.
- 41.27. At this Step 4, DIBP will undertake an assessment of each Tenderer's financial and commercial viability to perform the Services, which is a Condition for Participation. Any Tenderer that is considered to not be financially or commercially viable to perform the Services will be excluded from further consideration in accordance with **clause 19.1**.

Step 5 - Value for Money (including Risk Assessment and Assessment of Economic Benefit to Australian Economy)

- 41.28. DIBP's assessment of value for money in respect of each Tender admitted into this Step 5 will take into account the risk posed by the Tenderer's completed Statement of Non-Compliance (see **Form 9** in **Attachment F** (Tenderer Response Forms)) and may, without limitation, take into account:
- (a) the Tenderer's draft Security Risk Management Plan (see **Form 14** in **Attachment F** (Tenderer Response Forms));
 - (b) the Tenderer's information provided in response to **Attachment F** (Tenderer Response Forms) of this RFT;
 - (c) ability to meet the requirements and provide the Services set out in **Attachment B** (Statement of Requirement);
 - (d) the Tenderer's degree of compliance with this RFT including **Attachment D** (Draft Agreement), including:
 - i. the anticipated degree of difficulty in contracting with the Tenderer;
 - ii. the risk to DIBP of any suggested amendments to the **Attachment D** (Draft Agreement) that the Tenderer would like DIBP to consider; and the assessed risk to the negotiation of a Agreement acceptable to DIBP;
 - (e) the Tenderer's proposed contracting structure;
 - (f) the Tenderer's proposed Subcontractors (including Key Subcontractors) to fulfil the obligations under **Attachment D** (Draft Agreement) as set out in **Form 1** of **Attachment F** (Tenderer Response Forms);
 - (g) the Tenderer's insurances for the purposes of managing the indemnities and liabilities under **Attachment D** (Draft Agreement);
 - (h) the Tenderer's identification of risks associated with the performance of the Services during the Contract Period and appropriate management of strategies;
 - (i) risks identified as a result of the assessment of the Tenderer's or Subcontractor's financial and commercial viability (see **Forms 7** and **8** in **Attachment F** (Tenderer Response Forms));
 - (j) risks identified as a result of the assessment of the Tender against the Evaluation Criteria at **clause 42**;

- (k) risks identified from sources including (without limitation) from DIBP, ASIC company searches/reports and Agencies;
 - (l) risks identified from any proposed confidential information;
 - (m) risks identified as part of conducting the overall risk assessment; and
 - (n) other risks identified during the evaluation of the Tender.
- 41.29. The value for money assessment will also take into account the economic benefit of each Tender admitted into this Step 5 to the Australian economy.
- 41.30. The Evaluation Committee may shortlist Tenders following completion of its assessment of risk and assessment of economic benefit to the Australian economy, for further progression in the Evaluation Process. The Evaluation Committee in its absolute discretion will determine the number of Tenders on any shortlist.
- 41.31. The Evaluation Committee will determine value for money by comparing the outcomes of each previous step for each Tender.
- 41.32. The Evaluation Committee will determine overall best value for money represented by each Tender.
- 41.33. Value for money is a comprehensive assessment that takes into account the following:
- (a) evaluation against the Technical Evaluation Criteria under Step 3;
 - (b) pricing evaluation under Step 4; and
 - (c) evaluation of overall risk and economic benefit to the Australian economy under this Step 5.
- 41.34. DIBP will also undertake consideration of affordability of the Tenders.
- 41.35. At the end of Step 5, the Tenderer with the highest overall ranking and representing overall best value for money and which is affordable will be identified as the preferred Tenderer (if any).

Negotiations

- 41.36. Negotiations may be undertaken with one (1) or more Tenderers in the sole and absolute discretion of DIBP.
- 41.37. During the negotiation phase of this RFT Process, DIBP may engage in detailed discussions and negotiations, including parallel negotiations, with the goal of maximising the benefits, as measured using the Evaluation Criteria. As part of this process, those Tenderers participating in the negotiation phase may be asked to improve any or all aspects of their Tender. DIBP's intention is that it will select preferred Tenderer(s) (if any) after all material issues have been resolved.
- 41.38. Without limiting **clause 41.26**, DIBP may seek Best and Final Offers from Tenderers participating in the negotiation phase of this RFT Process.

41.39. Without limiting its other rights under this RFT, in the event that DIBP concludes that during negotiations (or at any other stage during the RFT Process) a Tenderer has retracted, or attempts to retract, any part of its tendered offer, DIBP, in its sole and absolute discretion, reserves the right to:

- (a) disqualify that Tenderer's Tender;
- (b) terminate this RFT;
- (c) re-enter negotiations or parallel negotiations with other Tenderers; or
- (d) exercise any other right reserved to DIBP under Law or elsewhere in this RFT.

41.40. At the end of negotiations, DIBP will re-evaluate its value for money decision and determine which is the preferred Tenderer.

42. Evaluation Criteria

42.1. Each Tender:

- (a) admitted into Step 3 – Evaluation against the Technical Evaluation Criteria will be evaluated against the Technical Evaluation Criteria set out in this clause 42;
- (b) admitted into Step 4 – Pricing Evaluation will be evaluated against Criterion 1 of the Non-Technical Evaluation Criteria set out in this clause 42; and
- (c) admitted into Step 5 – Value for Money (including Risk Assessment and Assessment of Economic Benefit to Australian Economy) will be evaluated against Criterion 2 of the Non-Technical Evaluation Criteria set out in this clause 42,

in order to determine if the Tender offers overall best value for money consistent with the CPRs and other Commonwealth purchasing policies.

42.2. If additional Evaluation Criteria are intended to be applied, in addition to the Evaluation Criteria set out in this **clause 42**, for purposes of evaluation, DIBP will notify Tenderers in accordance with **clause 15**.

Technical Evaluation Criteria

42.3. Tenders will be evaluated against the following Technical Evaluation Criteria:

Technical Evaluation Criteria	Weighting
Criterion 1: Technical Capability	65%
General: Ability to Innovate Ability to Meet Policy Ability to Deliver the Services Ability to Meet Reporting Requirements	15%
Business Requirements:	70%

Technical Evaluation Criteria	Weighting
Ability to Meet the Operational Requirements Ability to Meet the Future Requirements s47C	
Draft Plans: Quality of Draft Plans Tendered	15%
Criterion 2: Implementation Approach	20%
Transition	75%
Supplier Personnel and Clearances	25%
Criterion 3: Capacity and Organisational Capability	7.5%
Capacity	60%
Experience	40%
Criterion 4: Continuous Improvement	7.5%
Continuous Improvement	50%
Service Levels	50%

- 42.4. A description of relative importance (criticality) for:
- (a) each of the Technical Evaluation Criteria; and
 - (b) the “Business Requirements” within Evaluation Criterion 1,
- is set out in Attachment F (Tenderer Response Forms) using the following table:

Criticality	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

A failure to adequately demonstrate how a Tender will meet an ‘Essential’ Technical Evaluation Criterion or business requirement may result in the Department considering the Tender to be incomplete or so deficient or otherwise so clearly non-competitive that it is likely to represent no value to the Commonwealth in accordance with clause 41.7.

Non-Technical Criteria

- 42.5. Tenderers will also be evaluated against the following Non-Technical Evaluation Criteria (which are unweighted):

Non-Technical Evaluation Criterion/ Non-Technical Evaluation Sub-criterion
Criterion 1: Pricing
Criterion 2: Risk

Attachment A - Glossary

[See separate document]

Attachment B - Statement of Requirement

[See separate document]

Attachment C - Service Levels

[See separate document]

Attachment D - Draft Contract

[See separate document]

Attachment E - Industry Briefing and Registration Form and Confidentiality Deed Poll

[See separate document]

Attachment F - Tenderer Response Forms

[See separate document]

Attachment A - Glossary

Words and phrases used in this RFT have the following meanings unless otherwise stated:

Term	Definition
"Australian Border Force Act" or "ABF Act"	means the <i>Australian Border Force Act 2015</i> (Cth).
"Acceptance Criteria"	means criteria approved by the Department, by which a service will be judged acceptable or not.
"Access Point"	means the mechanism through which the Department delivers a service using channels.
"Account Executive/Principal"	means the Supplier Personnel who is responsible for the Supplier's delivery and reputation nationally as identified in Schedule 7 (Governance).
"Acquired Rights Directive"	means the Acquired Rights Directive 2001/23/EC, any legislation implementing such Directive and any equivalent legislation which operates automatically to transfer the employment contracts of employees.
s47C	
"Advice"	means 'immigration assistance' as defined in the Migration Act.
"Affiliate"	means, with respect to any entity, any other entity Controlling, Controlled by or under common Control with such entity.
"Agency" and "Agency of the Commonwealth"	means: <ul style="list-style-type: none"> a) a body corporate or an unincorporated body established or constituted for a public purpose by Commonwealth legislation, or an instrument made under that legislation (including a local authority); b) a body established by the Governor General or by a Minister of State of the Commonwealth, including departments; or c) an incorporated company over which the Commonwealth exercises control.
"Agreement"	means this Deed, including the Terms and Conditions and all Schedules, Annexes and Appendices, together with any other documents expressly incorporated by reference.
"Agreement Change"	means any amendment to the Agreement including: a change, reduction or addition to the Services Requirements; an amendment to the Performance Standards or any other part of the Agreement; and the introduction of a New Service within the scope of the Agreement, but excluding a Solution Change.

Term	Definition
"Agreement Management Log"	means the log for managing issues related to management of the Agreement that arises in the course of the Term, as set out in Schedule 11 (Reporting).
"Agreement Year"	means a period of one year measured from the end of the Transition In Period and annually thereafter.
"AGSVA"	means the Australian Government Security Vetting Agency, the agency that administers security clearances on behalf of the Department.
"Alternative Dispute Resolution"	has the meaning set out in Section 7.3 of Schedule 7 (Governance).
"ANAO"	means the Australian National Audit Office.
"Annex"	means an annex to a Schedule.
"Annual Review"	has the meaning set out in Clause 5 of the Terms and Conditions .
"API"	means an Application Programming Interface, a mechanism for exposing the data held in one database or application to another application.
"Applicable Requirements"	means the policies and Laws referenced at Schedule 13 – (Applicable Requirements).
"ASC"	means the Americas Service Centre.
"Assets"	means any information, Material, equipment or Software and any other tangible assets (excluding real property), either owned or leased by the Supplier or any Material Subcontractor and used directly in the fulfilment of any of the Services Requirements.
"Audit"	has the meaning set out in the Agreement.
"Audit Records"	has the meaning set out in the Agreement.
"Audit Report"	has the meaning set out in the Agreement.
"Audit Rights"	means the Department's rights to carry out Audits as set in the Agreement.
"AusTender"	means the Commonwealth of Australia's business opportunities website located at https://www.tenders.gov.au from which Tenderers download Tender documentation electronically, receive email notification if an addendum to the RFT is issued and lodge Tenders.
"Australian Privacy Principle" or "APP"	has the same meaning as in the Privacy Act.
"Authorised Person"	has the meaning set out in Section 7.1 of Schedule 3 (Security).
"Authorised Personnel"	means Supplier Personnel authorised in accordance with Section 7.1 of Schedule 3 (Security).

Term	Definition
"Business Continuity Plan"	means the Supplier's Business Continuity Plan developed in accordance with Schedule 2 (Business Requirements and Supplier's Solution).
"Business Day"	Means: a) for the purposes of the Request for Tender, a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory; b) in relation to a specified Site, any day on which that Site is staffed and operational; and c) for all other purposes, any day that is not a Saturday or Sunday or a public holiday or bank holiday in the Australian Capital Territory.
"Business Requirements"	means a subset of the Department's Operational Requirements for services as set out in Schedule 2 (Business Requirements and Supplier's Solution), Schedule 3 (Security), Schedule 6 (Service Levels and Service Credits), and Schedule 10 (Facilities).
"CCN"	means the form attached at Annex 8-1 to Schedule 8 (Change Control) which is used to initiate, evaluate, agree and document each Agreement Change.
"Central Issue Log"	means the log managed by the Supplier in relation to central issues, including the mitigation and treatment decisions, and agreed resolution activity as set out in Schedule 11 (Reporting).
"Certified QMS"	has the meaning set out in Clause 6.8 of the Terms and Conditions .
"Change"	means an Agreement Change or the introduction of a New Service.
"Change Control Procedure"	means the procedure for agreeing and implementing a Change set out in Schedule 8 (Change Control).
"Change in Law"	means the coming into effect or repeal (without re-enactment or consolidation) of any Law, or any amendment or variation to any Law, or any judgment of a relevant court of law which changes binding precedent, in each case after the Effective Date.

Term	Definition
"Change of Control"	Means in respect of the Supplier: a) subject to paragraph c) of this definition, the person who controls, or group of persons who, acting together, Control the Supplier; b) if the Supplier is a subsidiary, the Supplier ceases to be a subsidiary of the body corporate which is its holding company as at the Effective Date; c) a change or alteration occurring in the corporate structure of the Supplier which results in a person (including a company) other than the shareholders of the Supplier at the Effective Date: i) controlling the composition of the board of directors; ii) controlling the voting power of the board of directors or any class of shareholders or both; or iii) holding more than 20 per cent of the issued share capital (either beneficially or otherwise); or d) the Supplier disposes of an asset or assets (whether in a single transaction or a series of related or unrelated transactions) which, in the Department's reasonable opinion as the case may be, would adversely affect the Supplier's ability to provide the Services.
"Change Request"	means a request for a Change made by either party in the form of a CCN, in accordance with the Change Control Procedure.
"Channel"	means a medium through which a Service is delivered to a user.
"Citizenship"	means Australian Citizenship as defined in the <i>Australian Citizenship Act 2007</i> (Cth).
"Claim"	means any claim, demand, proceeding, suit or other action.
"Client"	means a recipient of the Department's Client Enquiry Services, whether those services are provided directly by the Department or by arrangement with another party or parties.
"Client Data"	means information about any Client, either provided by the Client during the Enquiry Process or already held by the Department or the Supplier.
"Client Enquiry" or "Client Enquiries"	means an attempt by a Client to contact or interact with the Department for the purposes of receiving the Client Enquiry Services or the actual contact or interaction as a result of that attempt.
"Client Enquiry Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in in Schedule 2 (Business Requirements and Supplier's Solution).

Term	Definition
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"Client Lead"	means the Supplier Personnel who is responsible for all the Department business as identified in Schedule 7 (Governance).
"Client Satisfaction Survey"	has the meaning set out in Section 3.3.2 of Schedule 6 (Service Levels and Service Credits).
"Closing Time"	means the closing date and time for submission of Tenders, as set out in the RFT Details.
"Commercially Available Off The Shelf Software" or "COTS Software"	means standardised software which is available in the open market, is not intended to be customised or enhanced and is made available on standard licence terms which are non-negotiable.
"Commercially Reasonable Efforts"	means taking such steps and performing them in such a way as a well-managed organisation would undertake with the aim of achieving a particular desired result for its own benefit, assuming such an organisation was acting in a commercial, prudent and reasonable manner.
"Commonwealth"	means the Commonwealth of Australia.
"Commonwealth Procurement Rules"	means the Commonwealth Procurement Rules issued by the Department of Finance under section 101 of the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth).
"Communication Plan"	means the communications plan agreed in accordance with Schedule 4 (Transition Management).
"Competitor"	means a service provider that provides or delivers the business of call centre services or client handling services which are identical or near identical to the Services.
"Completion Date"	means the date listed as part of Suppliers Transition In Plan and commitments as part of Schedule 4 (Transition Management) for the respective activities to be completed by.
"Condition for Participation"	means the mandatory conditions for participation (if any) set out in the RFT Details.

Term	Definition
"Confidential Information"	<p>in relation to a party, means information that is by its nature confidential; and:</p> <p>a) is designated by a party as confidential; and</p> <p>b) the receiving party knows or ought reasonably to know is confidential,</p> <p>and includes the information described in Schedule 16 (Confidential Information) but does not include information which is or becomes public knowledge other than by breach of the Agreement or any other confidentiality obligations or is independently developed without reference to the other party's Confidential Information.</p>
"Conflict of Interest"	<p>means a conflict (or potential conflict) between the interest of the Supplier, a Supplier Subcontractor and/or a Supplier Personnel and interests of the Department or the obligations and duties owed to the Department under the Agreement such that a reasonable person having regard to the facts would reasonably regard as so significant and particular that it is likely to prejudice the ability of the Supplier, the Supplier Subcontractor or the Supplier's Personnel to perform the those obligations and duties in an impartial manner.</p>
"Contact Officer"	<p>means the person specified as the Contact Officer for the Department in the RFT Details.</p>
"Contract Delivery Manual"	<p>means the manual the Supplier must provide in accordance with Schedule 2 (Business Requirements and Supplier's Solution).</p>
"Contract Manager"	<p>means the person at the time holding, occupying or performing the duties of contract manager of the Department or any substitute notified to the Supplier by the Department.</p>
"Control"	<p>has the same meaning as in Section 50AA of the Corporations Act, i.e. an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity's financial and operating policies.</p>
"Corporations Act"	<p>means the <i>Corporations Act 2001</i> (Cth).</p>
"Cost Compensation Event"	<p>has the meaning set out in Section 2.2 of Annex 8-3 to Schedule 8 (Change Control).</p>
"Cost Element Spreadsheet"	<p>means the spreadsheet containing the cost elements comprising the s47C Services Charges.</p>
"Country"	<p>means a country in which a Service Centre is used to provide Services to the Department.</p>
"Default"	<p>means, in relation to either party (including its employees, agents and subcontractors), any breach of the obligations under the Agreement of that party (including fundamental breach or breach of a fundamental term) or failure by that party to perform such an obligation or any negligent or criminal act or omission of that party in connection with or in relation to the subject-matter of the Agreement.</p>

Term	Definition
"Delivery Manager"	means the Supplier Personnel responsible for the day to day delivery of the Services for the Supplier in accordance with Schedule 7 (Governance).
"Department"	means the Department of Immigration and Border Protection.
"Department Assets"	means the assets and supplies owned or commissioned by the Department that the Department procures to allow the Supplier to use, or otherwise makes available to the Supplier and which are necessary for the Supplier to fulfil the Services Requirements.
"Department Audit Representative"	means any representative or employee of the Department, the Department's external auditors and/or any third party appointed by the Department to conduct an Audit on its behalf, as notified to the Supplier from time to time, provided that such representatives shall not be drawn from any Competitor of the Supplier.
"Department Client Service Charter"	means the Department's guidelines to provide services to its Clients.
"Department Data"	means all data and information (including Personal Information of Clients) relating to the Department, Client and/or any other Commonwealth Department which is provided to or created by or on behalf of the Supplier in the course of fulfilling the Services Requirements, including data or information about any of the Department's operations, facilities, Department Personnel, assets, products, programs, and the Services Requirements. The Department Data includes Department Material.
"Department Facilities"	means any Departmental owned or controlled premises.
"Department Material"	means any Material, including the Department's Work Products such as the Department's Training Materials, the Intellectual Property Rights in which are owned by the Department or any Australian Government department, which is used to provide, or which forms part of, the Services Requirements, and shall include all Modification to such Material. The Department's Material includes the Department Software.
"Department National Office"	means the headquarter offices of the Department in Canberra, Australia.
"Department Personal Data"	means any Departmental Data which is Personal Information.
"Department Personnel"	means individuals who are the officers, employees, agents, advisors, consultants or subcontractors or the Department and its subcontractors (other than Supplier Personnel).
"Department Policies"	means the Security Policy, the Department's work health and safety policy and any other policy or guidance of the Department notified to the Supplier prior to the Effective Date or, thereafter, introduced by the Department as a Mandatory Change.

Term	Definition
"Department Representative"	means the individual identified in Clause 50 of the Terms and Conditions .
"Department Security Policy and Standards"	means any security policies and standards used by the Department to maintain the security, safety, and integrity of its operations and all related assets, materials and data.
"Department Software"	means any Software, the Intellectual Property Rights in which are owned by the Department, any Australian Government Department or agency, which is used to provide, or which forms part of, the Services Requirements.
"Department Systems"	means the information and communication technology the Department utilises for the provision of its computing and telephony services.
"Department Work Product"	means: a) any Reports, monitoring information or statements created as part of the Supplier's fulfilment of the Services Requirements and delivered to the Department; or b) any other deliverable created or developed by or on behalf of the Supplier in the course of and for the purpose of the fulfilment of the Services Requirements which the parties agree should be treated as the Department Work Product, including the inventory to be provided under Clause 28.9 of the Terms and Conditions .
"DFAT"	means the Australian Department of Foreign Affairs and Trade.
"Direct Competitor"	means a service provider that delivers substantially similar services to the Services.
"Discriminatory Change in Law"	means a Change in Law, the terms of which: a) apply: i) expressly to the Department or to a Supplier; ii) specifically to the provision of enquiry services; iii) specifically to the provision of business process services to the Commonwealth and not to other customers of the Supplier; or iv) specifically to the fulfilment of the Services Requirements by the Supplier under the Agreement; or b) requires a change to the Services Requirements.
"Dispute Resolution Procedure"	means the process set out in Section 7 of Schedule 7 (Governance) for resolving disputed issues arising under the Agreement.
"Draft Agreement"	means the draft contract or deed of agreement set out, or referred to, in Attachment D to the RFT.
"Effective Date"	has the meaning set out in Supplier's Solution given to it in Clause 4.1 of the Terms and Conditions .

Term	Definition
"Electronic Tender Box"	means the area in AusTender where Tenders are lodged electronically.
"End of Year Performance Report"	means the report which includes the Service Level performance metrics for the Agreement Year as set out in Schedule 11 (Reporting).
"Enquiry Handling Operations Plan"	means the plan which details how Enquiries will be handled by the Supplier as required by Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Intention"	means the nature of an enquiry as per Part E of Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Process"	means the collective processes, procedures and methodologies under which a Client makes an enquiry of the Australian Government about a visa, citizenship or trade permit or application as described in Schedule 2 (Business Requirements and Supplier's Solution).
"Enquiry Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements and Supplier's Solution).
"ESC"	means: a) an Employment Suitability Check; or b) the Europe Service Centre; as applicable in the context of its use.
"Escalation Matrix"	means the matrix referenced in Schedule 2 (Business Requirements and Supplier's Solution).
"Exit Assistance"	means such advice and assistance as is reasonably requested by the Department to effect the smooth handover of responsibility for any of the Services Requirements and the continued operation of Services fulfilling the Services Requirements in accordance with the Service Levels and Service Credits, throughout the Exit Period (as more particularly described in Schedule 4 (Transition Management)).
"Exit Assistance Commencement Date"	has the meaning set out in Section 4.3 of Schedule 4 (Transition Management).
"Exit Manager"	has the meaning set out in Section 3.2 of Annex 4-2 of Schedule 4 (Transition Management).

Term	Definition
"Exit Period"	<p>means the period for provision of Exit Assistance, being the earlier of:</p> <ul style="list-style-type: none"> a) the date 12 months before the time for expiry of the Term, unless the Department notifies the Supplier of a later date; or b) the date on which a notice of Termination or reduction in scope is given in accordance with the Agreement, <p>and will continue until 12 months after the date of expiry or Termination of the Agreement unless:</p> <ul style="list-style-type: none"> c) the parties agree to a different period in writing; or d) the Department notifies the Supplier that Exit Assistance is no longer required.
"Exiting Supplier"	means any of the Incumbent Suppliers who will not be fulfilling any of the Services Requirements from the relevant Effective Date.
"Expiration Date"	means the end of the Term, or if agreed by the parties, the end of the Option Period, other than due to the Termination in accordance with the Agreement.
"Extended Service Level Default"	means the third or any subsequent consecutive Service Level Default for a specific Service Level. For clarity, each of the third, fourth, fifth and subsequent consecutive Service Level Defaults is an Extended Service Level Default.
"Facilities"	means the Supplier Facilities and the Department Facilities, in each case comprising premises, office space, furnishings, fixtures and fittings and other facilities.
"Fee Amendment"	means a change to the Service Charges ^{s47C} [REDACTED], in accordance with Schedule 8 (Change Control).
"Fee Amendment Change"	means a change that results in a Fee Amendment, in accordance with Section 3.3 of Schedule 8 (Change Control).
"Fee Handling Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements).
"Fee Review Procedure"	<p>means the procedure described in Annex 8-3 of Schedule 8 (Change Control) for the adjustment of the Service Charges ^{s4} [REDACTED] as a result of a Change which is classified by such procedure as having an impact on the Service Charges ^{s4} [REDACTED].</p> <p style="text-align: right;">7</p>

Term	Definition
"Force Majeure"	<p>means the occurrence of an event or circumstance beyond the reasonable control of an Affected party, without limitation:</p> <ul style="list-style-type: none"> a) explosions, fires, flood, earthquakes, catastrophic weather conditions, diseases, or elements of nature or acts of God; b) acts of war, terrorism, insurrection, riots, civil disorders, rebellion or sabotage; c) national or state-level states of emergency; d) labour disputes, lockouts, strikes or other industrial action, whether direct or indirect and whether lawful or unlawful (but in any case, other than of the Affected party's employees or employees of the Affected party's subcontractors); e) nuclear, chemical or biological contamination; f) political interference or obstruction from a government outside of Australia; and g) outages of the public power supply, <p>provided that:</p> <ul style="list-style-type: none"> h) the Affected party is without fault in causing or failing to prevent such occurrence; and i) such occurrence cannot be circumvented by reasonable precautions and could not have been circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.
"Force Majeure Event"	means an event of Force Majeure.
"FTE"	means full time equivalent.
"Functional Group"	means the business areas of the department as per Part E of Schedule 2 (Business Requirements and Supplier's Solution).
"Future Requirements"	means the requirements identified as future requirements in Part B of Schedule 2 (Business Requirements and Supplier's Solution).
"Future Services"	means any future services agreed to be provided by Supplier in fulfilment of Part B of Schedule 2 (Business Requirements and Supplier's Solution).
"Generally Accepted Accounting Practice" or "GAAP"	means, in relation to a company, accounting principles, concepts, bases and policies generally adopted and accepted in accounting practice.
"Generic Requirements"	means the Business Requirements identified as such in Section 3 of Part A Schedule 2 (Business Requirements and Supplier's Solution).
"Global Feedback Unit"	means a unit of the Department dealing with compliments, complaints and suggestions.

Term	Definition
"Go-Live"	means where the Supplier assumes responsibility for the fulfilment of the relevant Services Requirement, having met the relevant Readiness Criteria and demonstrated to the Department's reasonable satisfaction that it is ready to do so.
"Go-Live Date"	means the nominated date prescribed in Part E - Annexure of Schedule 2 (Business Requirements and Supplier's Solution) for the commencement of the delivery of Services Requirement by the Supplier.
"Go-Live Readiness Certificate"	means a document which is signed by the Department to acknowledge that the Supplier has met the relevant Readiness Criteria and has demonstrated to the Department's reasonable satisfaction that it is ready to assume the fulfilment of the relevant Services Requirement.
"Good Industry Practice"	means, at any time, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced provider of business process services provided in connection with the fulfilment of the Services Requirements; and seeking in good faith to comply with its contractual obligations and complying with relevant Law.
"Goods and Services Tax" or "GST"	has the meaning given to it in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
"Harmful Code"	means any Software or code that is designed to infiltrate a computer, system, Network or other infrastructure without an end user's informed consent, such as malware, virus, worm, Trojan, time bomb, spam, phishing email, backdoors, bots, spyware, ransomware, adware, diallers, toolkits, key loggers, hijackers, web bug, exploits, cracking and hacking tools.
"Illegal Worker"	means a person who: <ul style="list-style-type: none"> a) has unlawfully entered and remains in Australia; b) has lawfully entered Australia, but remains in Australia after his or her visa has expired; or c) is working in breach of his or her visa conditions.
"Immigration and Border Protection worker" or "IBP worker"	has the meaning given to it in section 4 of the <i>Australian Border Force Act 2015</i> (Cth) or as determined by the Secretary or the Australian Border Force Commissioner under section 5 of that Act.
"Impact Analysis"	means the process described in Annex 8-2 to Schedule 8 (Change Control).

Term	Definition
"Incident"	<p>means:</p> <p>a) any event that is not part of the standard operation of a service and that causes, or may cause, an interruption to, or a reduction in, the quality of that service; or</p> <p>b) is a contact which is not related to non-standard operation of a service, but that is a request for information, advice or Documentation or is a request for some action to be taken regarding an affected Service on behalf of the user (for example, a password reset);</p> <p>and includes:</p> <p>c) an unplanned interruption to an IT service (including the Services); and</p> <p>d) a reduction in the quality of an IT service (including the Services).</p>
"Incumbent Contracts"	means the contracts between the Department and the Incumbent Suppliers (if any), including all subsequent amendments and addenda and related agreements.
"Incumbent Suppliers"	means the service providers (if any) which fulfil services requirements similar to the Services Requirements in a particular country or region immediately prior to the Effective Date.
"Indicative Fee Amendment Proposal"	has the meaning set out in Section 4.1.3 of Schedule 8 (Change Control).
"Information Security Manual" or "ISM"	means the standard which governs the security of government ICT systems.
"Information Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set out in Schedule 2 (Business Requirements and Supplier's Solution).
"Infrastructure Systems"	means all or any part of the Assets and Software.
"Initial Term"	means the period from and including the Effective Date to the Expiry Date as at the Effective Date.

Term	Definition
"Insolvency Event"	<p>means any of the following:</p> <ul style="list-style-type: none"> a) a "controller" (as defined in section 9 of the Corporations Act), a trustee, administrator or similar officer is appointed in respect of a person or any asset of a person; b) a liquidator or provisional liquidator is appointed in respect of a corporation; c) any application (not withdrawn or dismissed within five (5) Business Days) is made to a court for an order, an order is made, a meeting is convened or a resolution is passed, for the purpose of: <ul style="list-style-type: none"> i) appointing a person referred to in paragraphs a) or b) of this definition; ii) winding up or deregistering a corporation; or iii) proposing or implementing a scheme of arrangement other than with the prior approval of Health under a solvent scheme of arrangement pursuant to Part 5.1 of the Corporations Act; d) any event or conduct occurs which would enable a court to grant a petition, or an order is made, for the bankruptcy of an individual or his estate; e) any application (not withdrawn or dismissed within five (5) Business Days) is made to a court for an order, a meeting is convened, a resolution is passed or any negotiations are commenced, for the purpose of implementing or agreeing: <ul style="list-style-type: none"> i) a moratorium of any debts of a person; ii) a personal insolvency agreement; iii) any other assignment, composition or arrangement (formal or informal) with a person's creditors; or iv) any similar proceeding or arrangement by which the assets of a person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee, v) or any agreement or other arrangement of the type referred to in this paragraph e) is ordered, declared or agreed to; f) a person becomes an insolvent under administration within the meaning of the Corporations Act; g) as a result of the operation of section 459F(1) of the Corporations Act, a corporation is taken to have failed to comply with a statutory demand (as defined in the Corporations Act); h) any writ of execution, garnishee order, mareva injunction or similar order, attachment or other process is made, levied or issued against or in relation to any asset of a person that has an adverse impact on the operation of the Supplier; i) the Commissioner of Taxation issues a notice to any creditor of a person under the <i>Taxation Administration Act 1953</i> (Cth) requiring that creditor to pay any money owing to that person to the Commissioner in respect of any Tax or other amount required to be paid by that person to the Commissioner (whether or not due and payable) or the Commissioner advises that creditor that it intends to issue

Term	Definition
"Intellectual Property Rights"	includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.
"Intended Date"	has the meaning set out in Section 2.2.1(b) of Schedule 6 (Service Levels and Service Credits).
"Intended Service Model"	means the Department's designation of the proposed method of providing Application Services in a defined country or territory; i.e., either in-house by the Department or by a private sector partner.
"Invoicing Point"	has the meaning set out in Schedule 5 (Pricing).
"IT Operations Plan"	means the plan which details how the Supplier will operate IT to Deliver the Services as required by Schedule 2 (Business Requirements and Supplier's Solution).
"IVR"	means Interactive Voice Response.
"Key Position Personnel"	means the Personnel specified in Schedule 9 (Human Resource Management) as Personnel required to perform all or part of the work to service the Supplier Solution.
"Key Position"	means a position specified in Annex 9-1 to Schedule 9 (Human Resource Management) or otherwise agreed by the parties as being a key position and which the Supplier shall ensure is filled in accordance with Section 5 of Schedule 9 (Human Resource Management).
"Late Tender"	means a Tender which is lodged after the Closing Time.
"Law"	<p>means:</p> <ul style="list-style-type: none"> a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject; b) the common law and the law of equity as applicable to a party/the parties from time to time; c) any binding court order, judgement or decree; d) any applicable industry code, policy or standard enforceable by law; or e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any competent regulatory body having jurisdiction over a party or any of that party's assets, resources or business, <p>in any jurisdiction that is applicable to the Agreement or the within which the Services are provided, and "Legal" shall be interpreted accordingly.</p>
"Licence Transfer Right"	has the meaning set out in Clause 28.4.2 of the Terms and Conditions .

Term	Definition
"Line Manager"	has the meaning set out in Schedule 4 (Transition Management).
"Line of Business Systems"	means any business application(s) that hold key case, Client, and/or processing related data that are hosted on the Department's protected network.
"Lobbyist"	has the meaning as set out in the Lobbying Code of Conduct.
"Local Considerations"	means local conditions that apply in particular Countries as set out in Annex 2-1 to Schedule 2 (Business Requirements and Supplier Solution).
"Local Sales Tax"	means any sales, use, excise, value added or consumption tax imposed by any state, authority or country or any other body or person with authority to impose or levy any such taxes including, but not limited to, any amount similar in nature to GST.
"Location"	means a Service Centre providing services to the Department.
"Loss"	means all losses, liabilities, damages, awards, orders, decisions and Claims (including, in the case of the Department, the directly incurred losses, liabilities, damages and Claims of Services Recipients and including, in the case of the Supplier, the directly incurred losses, liabilities, damages and Claims of the Material Subcontractors), and all related costs, expenses and payments made to third parties (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).
"Material"	means any material in whatever form (including written, magnetic, electronic, graphic or digitised) including any methodologies, processes, know-how, reports, specifications, business rules or requirements, manuals, user guides, training materials and instructions, supporting material relating to Software and/or its design, development, modification, operation, support or maintenance, but excluding Software.
"Material Default"	means any Default by the Supplier which is sufficiently material to warrant Termination of the Agreement or, in the case of a partial Termination, is sufficiently material to warrant Termination of such part of the Agreement.
"Material Subcontract"	means the contract between the Supplier and a Material Subcontractor.

Term	Definition
"Material Subcontractor"	means any Supplier Subcontractor that fulfils the Services Requirements relating to: a) all of the Business Requirements at any Service Centre; b) any complete Business Requirement in any Country; or c) any other functions or services which the Department reasonably deems to be materially important to the provision of the Application Services as notified by the Department from time to time and agreed through the Change Control Procedure, and is approved by the Department in accordance with Section 4.1 of Schedule 9 (Human Resource Management).
"Measurement Period"	means the period of time during which a Service Level is to be measured, as set out the Service Levels and Service Credits Matrices.
"Migration Act"	means the <i>Migration Act 1958</i> (Cth).
"Milestone"	means a phase or deliverable agreed as a "Milestone" in respect of the completion of a service or task specified in a Transition Plan as a "Transition Milestone".
"Minimum Content and Format Requirement"	means a mandatory minimum content and format requirements for Tenders (if any) as set out in the RFT Details.
"Modify"	means to modify, add to, enhance, reduce, change, replace, vary, derive or improve, and "Modification" and "Modified" have corresponding meanings.
"Monthly Service Report"	means a Monthly report prepared by the Supplier, demonstrating the actual performance achieved against each of the Service Levels and Service Credits in the preceding month.
"Monthly"	means every calendar month.
"NAATI"	means the National Accreditation Authority for Translators and Interpreters.
"New Services"	means services and/or requirements (which reasonably fall within the scope of the Agreement) which are in addition to or an extension of the services provided in fulfilment of the Services Requirements as specified in Schedule 2 (Business Requirements and Supplier's Solution) and agreed as change under Schedule 8 (Change Control).
"Non-Chargeable Changes"	has the meaning set out in Section 3.2 of Schedule 8 (Change Control).
"Offshore"	means any location outside of Australian borders.
"Online Data Entry System"	means the online data entry system to be provided by the Supplier to provide the Data Entry Services.
"Onshore"	means any location within Australian borders.
"Operational Requirements"	means the Requirements set out in Part A of Schedule 2 (Business Requirements and Supplier's Solution).

Term	Definition
"Ordinary Course of Business"	means either: a) any acts, omissions or conduct which is consistent in all respects with the prevailing pattern, or course of conduct, or management used by the Supplier in the fulfilment of the Services Requirements or undertaken in order to comply with the applicable obligations under the Agreement; or b) acts, omissions or conduct which a well-managed company would undertake (assuming that such company is acting in a prudent and reasonable manner) in relation to the fulfilment of the Services Requirements, or in order to comply with all applicable obligations under the Agreement.
"Originating Party"	means the party raising a Change Request, as described in Section 4.2.3 of Schedule 8 (Change Control).
"Other Commercial Services" or "OCS"	means the supply of non Client Enquiry Services related commercial services to Clients by the Supplier, subject to the agreement by the Department.
"Other Service Provider"	means a service provider other than the Supplier or Supplier Subcontractor.
"Other Supplier Facility"	means facilities of the Supplier other than the Service Centres, as set out in Annex 10-2 of Schedule 10 (Facilities).
"Outline Exit Plan"	means the minimum provisions that will be included in any Exit Plan, as listed in Schedule 4 (Transition Management).
"Overall Transition Methodology and Plan"	means the overall methodology to be adopted by the Supplier and the relevant plans to achieve Transition in accordance with Schedule 4 (Transition Management).
"Performance Report"	means a report to be provided in accordance with Schedule 6 (Service Levels).
"Performance Standards"	means, individually and collectively, the quantitative and qualitative performance standards and commitments for the Services contained in the Agreement, including the Service Levels and Service Credits.
"Personal Information"	has the meaning set out in the Privacy Act as amended from time to time, and includes information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
"Personnel"	means, in relation to the Department, Department Personnel; in relation to the Supplier, Supplier Personnel; and in relation to the Tenderer, Tenderer Personnel.
"Plans"	means all and any Plan required under the Agreement, whether specified or otherwise, in order to successfully establish, transition, deliver or exit from the Services.
"PPSA"	means the <i>Personal Property Securities Act 2009</i> (Cth).

Term	Definition
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"Privacy Act"	means the <i>Privacy Act 1988</i> (Cth).
"Procedures Manual"	means the standards and procedures manual described in Clause 15 of the Terms and Conditions .
"Processed"	means the successful completion of any activity, as described in the Services Requirements.
"Procurement Process"	means the process by which the Department may approach the market for the provision of application services, including any of the Services Requirements, which process (so far as it involves the Supplier) may extend beyond the Termination Date.
"Projected Volumes"	means the estimated volumes of Clients set out in Annex 5-2 of Schedule 5 (Pricing).
"Proof of Identity" or "POI"	means a series of questions to determine a caller's identity to ensure compliance with the Privacy Act.
"Protective Security Policy Framework" or "PSPF"	means the framework published by the Attorney-General's Department to provide the controls for Australian Government services to protect its people, information and assets.
"Readiness Criteria"	means, in relation to any Transition activity or deliverable, such criteria as may be agreed between the parties against which such Transition activity or deliverable will be measured to assess whether or not it has been satisfactorily completed.
"Registered Tenderer"	means a Tenderer who has successfully completed and returned the Deed of Confidentiality required to access the RFT.
"Regulatory Agency"	means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity, ombudsman or authority and includes a minister of the Crown (in any right).
"Regulatory Audit"	means an Audit performed by or on behalf of a regulator.
"Related Body Corporate"	has the meaning given to it in the Corporations Act.
"Relief Event"	means: <ul style="list-style-type: none"> a) any failure by the Department (or if applicable a Services Recipient) to perform any of its responsibilities or obligations set out in the Agreement; b) any act of the Department or specific direction of the Department provided that the member of the Department's Personnel giving such direction has apparent authority to give such direction; c) a Force Majeure Event; or d) any other event as determined and agreed as Relief Event between the parties.

Term	Definition
"Removed Services"	means services removed from any Services Requirements by the Department in accordance with the provisions of the Agreement including on any Termination.
"Report"	means any document, format of data or information update (whether electronic or paper) to be provided to the Department by the Supplier from time to time, on a regular or ad hoc basis, for the purposes of reporting upon the fulfilment of the Services Requirements, including the data files and reports listed in Schedule 11 (Reporting).
"Request for Tender or RFT"	means: a) prior to the signing of an Agreement (if any), the request for tender documents for the provision of Client Enquiry Services, including all parts, attachments, schedules or annexures to it, and any addenda issued by the Department in respect of it; or b) post the signing of an Agreement (if any), the request for tender documentation for the provision of Client Enquiry Services.
"Required Consent"	means, where necessary to provide the Supplier's Solution, the approval of a third party to enter into a contract for required products and/or services with the Supplier or to novate, assign, transfer or license to the Supplier an existing service or contract.
"Resource Plan"	means the Supplier's resource plan for delivery of the Services.
"RFT Process"	means: a) prior to the signing of an Agreement (if any), the process described in this RFT; or b) post the signing of an Agreement (if any), the process adopted by the Department after the issue of RFT No 11/16 and leading to the execution of this Agreement.
"Risk Management Plan"	means the risk management plan which forms part of the Overall Transition Methodology and Plan.
"Risk Register"	means a register of Transition specific risks of delivery and interdependencies between Transition activities, maintained by the Supplier.
"Roll-Out Schedule"	means the program of Go Live Dates set out in Annex 4-9 to Schedule 4 (Transition Management).
"Schedule"	means each of the Schedules to the Agreement.
"Scheduled Downtime"	means the period of pre-arranged and pre-approved by the Department time that the Services or a part of the Services for which the pre-approval has been given will not operate.

Term	Definition
"Security Incident"	means any event relating to the provision of the Supplier's Solution and/or any Facilities used by the Supplier Personnel, which event damages or threatens to damage any tangible or intangible asset, including Assets, Software, Material, Facilities, money, personnel, the confidentiality of information, or the integrity and/or availability of any IT systems (including the Biometric Equipment and Biometric Software, if any) and/or the Department Data.
"Security Interest"	means: a) a security interest that is subject to the PPSA; b) any other mortgage, pledge, lien or charge; or c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.
"Security Policy"	has the meaning set out in Section 2.1 of Schedule 3 (Security).
"Self harm"	means deliberate injury to oneself.
"Sensitive"	means information that is a subset of personal information.
"Serious Delay"	means a delay that will have a material impact on the business operations of the Department.
"Service Centre"	means a location that provides Client Enquiry Services or other services as approved by the Department.
"Service Charge(s)"	means the fee that the Supplier is entitled to charge the Department for Clients making use of the Services, in accordance with the Agreement and as set out in Schedule 5 (Pricing).
"Service Credit Allocation"	means the number of Service Credits allocated to a particular Critical Service Level in accordance with section 5A of Schedule 6 (Service Levels and Service Credits).
"Service Credit"	means the amount (calculated in accordance with the Schedule 6 (Service Levels and Service Credits) payable to the Department if the Supplier fails to meet a Critical Service Level.
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"Service Level Default"	means the failure by the Supplier to meet a Service Level in any particular Measurement Period.
"Service Level Default Action"	means the performance management actions, as set out in Section 5.3 of Schedule 6 (Service Levels and Service Credits), which the Department may take on account of a Service Level Default by the Supplier.

Term	Definition
"Service Level Target"	means the contracted level of performance for a Service Level, as initially set out in Annexes 6-1 to Schedule 6 (Service Levels and Service Credits) and as the same may be changed in accordance with Sections 2.2 and 2.3 of Schedule 6 (Service Levels and Service Credits).
"Service Levels"	means those levels of performance of the Services set out in the Service Levels and Service Credits Matrices in Schedule 6 (Service Levels and Service Credits).
"Service Levels and Service Credits Matrices"	means the tables of Service Levels and Service Credits set out in Annexes 6-1 to Schedule 6 (Service Levels and Service Credits).
"Services"	means all of the Services to be provided by, and the functions and responsibilities of, the Supplier as set out in the Agreement, including the delivery of the Supplier's Solution.
"Services Removal"	means, in each case only as permitted by the Terms and Conditions : a) the Department itself fulfilling any of the Services Requirements, or appointing one or more third parties to do so; or b) the removal by the Department of any of the Services Requirements from the scope of the Agreement.
"Services Requirements"	means the Department's requirements for services to be provided by the Supplier set out in the Terms and Conditions and in all of the Schedules, with the exception of Annexes to Schedule 3 (Security).
"Services Transfer Date"	means any date on or prior to (but which shall not extend beyond) the Termination Date on which any Services Requirements are transferred from the control and provision by the Supplier (under the Agreement) to the control and provision of either the Department or a Successor Supplier.
"Services Transfer Plan"	means the final form transition arrangements setting out the timetable and scope of required activities for transitioning any of the Services Requirements to the Successor Supplier that will be agreed between the parties based upon the relevant provisions of the Exit Plan (having given due weight to the requirements and views of any Successor Supplier in accordance with the provisions of Schedule 4 (Transition Management)).
"Site Supervisor"	means the Supplier Personnel responsible for the day to day performance of the Supplier Personnel in delivering the Services as identified in Schedule 7 (Governance).
"SME"	means a Subject Matter Expert.
"Social Media"	means the profiles on websites and applications created by and identified as belonging to the Department, that enable users to create and share content or to participate in social networking.

Term	Definition
"Software"	means any computer program or programming (including Source Code, object code and firmware), program interfaces and any tools or object libraries embedded in that Software, which is used in, or forms part of, the Supplier's Solution in the fulfilment of the Services Requirements.
"Solution Change"	has the meaning set out in Annex 8-4 of Schedule 8 (Change Control).
"Solution Change Procedure"	means the procedure for agreeing Solution Changes as described in Annex 8-4 of Schedule 8 (Change Control).
"Source Code"	means Software in eye-readable form and in such form that it can be compiled or interpreted into equivalent object code together with all technical information and documentation necessary for the use, reproduction and Modification of such Software.
"Specified Languages"	means the list of languages as per Part E of Schedule 2 (Business Requirements and Supplier's Solution), if any.
"SSC"	means the Sydney Service Centre.
"Standard Work Day"	means seven point five (7.5) hours of work time or such other period as is agreed to reflect local working practices. Work time excludes time on annual leave, bank holidays, sick leave, attendance at training courses (unless such training is directly related to the Services), and lunch breaks taken during the day.
"Start-Up Period"	means the period starting on the relevant Effective Date and ending on the date that the relevant Transition Acceptance Certificate is signed by the Department.
"Status Tracking Services"	means the services provided by the Supplier in fulfilment of the Business Requirements set in Schedule 2 (Business Requirements and Supplier's Solution).
"Step-In Event"	means an event set out in clause 46.1 of the Terms and Conditions .
"Step-In Powers"	has the meaning given to it in clause 46.5 of the Terms and Conditions .
"Step-In Right"	has the meaning given to it in clause 46.2.2 of the Terms and Conditions .
"Subcontract Flow-Down Provisions"	has the meaning set out in Section 7.2.1 of Schedule 9 (Human Resource Management).
"Subcontract Transfer Right"	has the meaning set out in Section 7.2 of Schedule 9 (Human Resource Management).
"Successor Supplier Service Transition Plan"	means the plan set out in Schedule 4 (Transition Management) dealing with the transfer of Services to the Successor Supplier.
"Successor Supplier"	means any party (including the Department or any other Agency of the Commonwealth) which the Department nominates to provide any or all of the Removed Services.
"Supplier"	means the party identified in the Agreement as the Supplier.

Term	Definition
"Supplier Audit"	has the meaning set out in Section 6.1 of Schedule 12 (Audit Access).
"Supplier Continuous Improvement Report"	means the Report set out in Annex 11-1 of Schedule 11 (Reporting) outlining the related Services which impact on the performance of the Services Requirements and Service Levels and Service Credits.
"Supplier Facility"	means a Service Centre or any Other Supplier Facility, including Supplier-owned or controlled premises (or Supplier Subcontractor-owned or controlled premises) which is used in the Supplier's or a Supplier Subcontractor's fulfilment of the Services Requirements.
"Supplier Group"	means the Supplier and all of its Affiliates.
"Supplier Group Company"	means a company or other entity that is part of the Supplier Group.
"Supplier Material"	means any Material (including the Supplier's Procedures Manual), created independently to the Agreement, whether before or after its Effective Date, the Intellectual Property Rights in which are owned by the Supplier or any Supplier Group Company or Material Subcontractor which is used to provide the Services Requirements, or which forms part of any of the Supplier's Solution, and shall include all Modifications to such Material.
"Supplier Parent Company"	means company or other entity that has Control over the Supplier.
"Supplier Personnel"	means all employees, officers, consultants, individual contractors and agents of the Supplier and Supplier Subcontractors assigned to fulfil all or part of the Services Requirements pursuant to the Agreement.
"Supplier Representative"	means the individual identified in Part A of this Schedule 1 (Definitions and Agreement Particulars).
"Supplier Security Manager"	the member of the Supplier Personnel responsible for security matters appointed in accordance with Section 3.1 of Schedule 3 (Security).
"Supplier Software"	means any Software created independently to the Agreement whether before or after its Effective Date, the Intellectual Property Rights in which are owned by Supplier or any Supplier Group Company, or any Material Subcontractor, which is used to provide the Services Requirements, or which forms part of the Supplier's Solution, and shall include all Modifications to such Software.
"Supplier Subcontract"	means a contract entered into between the Supplier and a Supplier Subcontractor, which shall include a lease for a Service Centre.

Term	Definition
"Supplier Subcontractor"	means any subcontractor or agent of the Supplier that fulfils directly any of the Services Requirements on behalf of the Supplier excluding any subcontractor or agent that is ancillary to or supportive of the Supplier's Solution and/or employment agencies through which the Supplier engages Supplier Personnel.
"Supplier Subcontractor Transfer Plan"	means a plan to provide for the timely and efficient transfer of Services under a Supplier Subcontract from the out-going to the incoming Supplier Subcontractor, in accordance with section 7.4 of Schedule 9 (Human Resource Management).
"Supplier Work Product"	means, other than in respect of the Department Work Product, any deliverable (in whatever form) which may be created or developed by or on behalf of the Supplier in the course of and for the purpose of the fulfilment of the Services Requirements, whether solely or jointly by the Supplier and the Supplier Subcontractors including any Software (which may include Modifications to Supplier Software) but excluding Third Party Software and Third Party Materials.
"Supplier's Solution"	means the manner in which the Supplier proposes to provide services to fulfil the Services Requirements, as set out in Schedule 2 (Business Requirements and Supplier's Solution) and the Annexes to Schedule 3 (Security).
"Support Cost"	means the costs (reflective of "one off" costs to allow Supplier to deliver Services at Effective Date) listed in Annex 1 of Schedule 5 (Pricing) that are not subject to COLA.

Term	Definition
"Survival Clause"	<p>means the following Clauses or Schedules of the Agreement, the obligation under which shall survive Termination of the Agreement:</p> <ul style="list-style-type: none"> a) Clause 14 (Service Charges, §47C and Taxes); b) Clause 15 (Procedures Manual); c) Clause 27 (Confidentiality); d) Clause 28 (Intellectual Property Rights); e) Clause 30 (Protection of Personal Information); f) Clause 34 (Audits Rights and Access); g) Clause 38 (Warranties and Representations); h) Clause 39 (Indemnity by Supplier); i) Clause 40 (Liability Cap); j) Clause 42 (Termination); k) Clause 43 (Consequences of Termination); l) Clause 45 (Transition Management); m) Clause 50 (Notices); n) Schedule 4 (Transition Management); o) Schedule 9 (Human Resource Management); p) Schedule 12 (Audit Access); q) Schedule 13 (Applicable Requirements); and r) Schedule 17 (Confidentiality), <p>and any other provision or Schedule or Clause of the Agreement which is expressed to survive Termination or which is required to give effect to such Termination or the consequences of such Termination.</p>
"Tax"	means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by a Regulatory Agency, together with any related interest, penalty, fine or other charge.
"Tax Invoice"	has the meaning given to it in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
"Technical Infrastructure"	means the combination of assets, Software and other items which the Supplier shall from time to time develop, implement and/or operate (as appropriate) in order to fulfil the Services Requirements including the architectural standards on which the Technical Infrastructure is based.
"Tender"	means a response submitted by a Tenderer to this RFT, including documents that are described as tenders, proposals, bids, offers, quotes, submissions, expressions of interest and applications for use on a multi-use list.

Term	Definition
"Tender Validity Period"	means the time period within which Tenders will remain open for consideration and acceptance by the Department, as specified in the RFT Details.
"Tenderer"	means any entity who submits a Tender, and includes a potential Tenderer.
"Tenderer Personnel"	means the officers, employees, agents, advisers, directors, partners, associates or subcontractors of the Tenderer.
"Term"	means the period from and including the Effective Date to the date of Termination of the Agreement (including any extensions).
"Termination Date"	means the effective date of Termination of the Agreement as specified in a notice of Termination given in accordance with the Terms and Conditions , or the Expiry Date of the Agreement.
"Termination for Convenience"	means the termination by the Department of all or part of the Agreement pursuant to Clauses 42.2 and 43 of the Terms and Conditions .
"Termination for Default"	means the termination by the Department of all or part of the Agreement pursuant to Clause 42.1 of the Terms and Conditions but excluding a Termination for Relief Event.
"Termination for Relief Event"	means the termination by the Department of all or part of the Agreement pursuant to Clause 44.1 of the Terms and Conditions .
"Termination"	means the termination of the Agreement due to expiry of the Term without renewal, or the expiry of the Term after extending the Agreement in accordance with Clause 4 of the Terms and Conditions , or a termination of the Agreement in accordance with the Terms and Conditions , and "Terminate" and "Terminated" shall be construed accordingly.
"Terms and Conditions"	means the clauses of the Agreement.
"Third Party Agreement"	means Agreements between the Department and Third parties, including, by way of example, software licences, maintenance contracts and equipment. Where "Third party" is defined as: means a legal entity company or person that is not a party to the Agreement.
"Third Party Interest"	means any legal or equitable right, interest, power or remedy in favour of any person other than the Commonwealth or the Supplier in connection with the Agreement, including, without limitation, any right of possession, receivership, control or power of sale, and any mortgage, charge, security or other interest.
"Third Party Material"	means Material in which the Intellectual Property Rights are owned by a third party.
"Third Party Software"	means Software in which the Intellectual Property Rights are owned by a third party.

Term	Definition
"Ticket Management Platform"	means the tool that contains the history of Enquiries, as per the IT Operations Plan.
"Tier 0"	means an Enquiry that is resolved through self-service by the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. This can also include accessing various online service applications available after following prescribed log-in processes.
"Tier 1"	means an assisted enquiry that could have been answered by the client using the publically available information, such as information regarding a visa product, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.
"Tier 2"	means an assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.
"Tier 3"	means a final point of resolution, an enquiry that requires a Departmental Subject Matter Expert to answer the enquiry.
"TIS"	means the Translating and Interpreting Service, provided by the Department.
"Tools"	means: <ul style="list-style-type: none"> a) any Software that is used for software development or testing, data capture, system maintenance, data search, analysis, project management, measurement and monitoring, including related methodologies, processes and know-how; or b) a measurement used to monitor Service Levels and Service Credits, in accordance with Schedule 6 (Service Levels and Service Credits).
"Transferring IPR"	has the meaning set out in Section 6.3 of Annex 4-7 to Schedule 4 (Transition Management).
"Transferring Personnel"	means Supplier Personnel transferring to the Successor Supplier (if any).
"Transferring Subcontracts"	has the meaning set out in Section 5 of Annex 4-7 to Schedule 4 (Transition Management).
"Transition"	means the program of activities to be performed by the parties during the Transition Period in accordance with Schedule 4 (Transition Management) and the Agreement with the aim of, and including, the successful assumption by the Supplier of responsibility for the fulfilment of all of the Services Requirements.

Term	Definition
"Transition Acceptance Certificate"	means a document which is signed by the Department to acknowledge that the Supplier has met the relevant Readiness Criteria for any post-Effective Date Transition activities or deliverables and has demonstrated to the Department's reasonable satisfaction that it has fulfilled the relevant Services Requirements during the Start-Up Period.
"Transition In"	means the transition in of the Services in accordance with the Transition requirements described in Schedule 4 (Transition Management) and the Transition In Plan.
"Transition In Plan"	means the plan to be agreed between the parties that shall set out each party's obligations: <ul style="list-style-type: none"> a) in detail, to ensure a smooth, effective and efficient transition of the Services relating to the Services Requirements to the Supplier; and b) to ensure minimum disruption to the Department and to the delivery of Services provided to Clients, in accordance with Schedule 4 (Transition Management).
"Transition Manager"	means the person responsible for the Supplier's Transition on a Regional level, in accordance with Schedule 4 (Transition Management).
"Transition Milestone"	means each instance of completing delivery of certain materials or performance of certain activities related to Transition as are agreed in accordance with Schedule 4 (Transition Management) (save in relation to non-material issues which do not cause any risk of non-achievement of Transition under the Agreement).
"Transition Milestone Date"	means a milestone date identified as being key in a Transition Plan.
"Transition Out Plan"	means the plan to be developed under Part B of Schedule 4 (Transition Management).

Term	Definition
"Transition Period"	<p>means:</p> <p>a) for Transition In - the period commencing on the Effective Date and ending on the date when all agreed Transition activities are completed as demonstrated by the signing by the Department of the final Transition Acceptance Certificate in accordance with Schedule 4 (Transition Management);</p> <p>s47C</p>
"Transition Plan"	<p>means one or more of the plans required in accordance with Schedule 4 (Transition Management).</p> <p>s47C</p>
"Turnover Rate"	<p>means the rate at which Supplier Personnel are replaced by new Supplier Personnel or otherwise cease to be assigned to the fulfilment of the Services Requirements.</p>
"Unconditional Financial Undertaking"	<p>means an unconditional financial undertaking in a form suitable to the Department as may be required under Clause 31 of the Terms and Conditions.</p>
"Unique Identifier"	<p>means, as described in Schedule 2 (Business Requirements and Supplier's Solution), the specific identification label/code/reference/tag (which may be in the form of a bar code) for each single Client used to collate and track through the Enquiry Process the various parts of the Enquiry and Client Data (including the physical supporting documents, s47C).</p>
"Urgent"	<p>means requiring immediate action or attention</p>
"Value For Money" or "VFM"	<p>has the same meaning as in the Commonwealth Procurement Rules (available at https://www.finance.gov.au/sites/default/files/commonwealth-procurement-rules.pdf).</p>
"VHT"	<p>means Virtual Hold Technology.</p>

Term	Definition
"Web Information Services" or "WIS"	means the Software provided by the Supplier to provide information to potential Clients via the web channel, manage e-mail enquiries and complaints, manage appointment booking, enable Clients to track the status of their Enquiry.
"Webchat"	means an online exchange of messages in real time about the Services.
"Webform"	means a webpage that allows a Client to enter details of an Enquiry.
"Work Product"	means the Department Work Product and/or Supplier Work Product, as the context requires.
"Yearly Performance Average"	means, with respect to each Critical Service Level for which there was a Service Level Default during the Agreement Year, the average of the Supplier's actual Monthly performances in the Service Levels and Service Credits during the Agreement Year.

Attachment B - Statement of Requirement

Note to Tenderer: This Statement of Requirement will be attached to the Contract as part of Schedule 2 - Statement of Requirement and Supplier Solution.

1. Introduction**1.1. Background Information about the Department**

- 1.1.1. From 1 July 2015, the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service were consolidated into a single Department of Immigration and Border Protection (**Department**). At this time, the Australian Border Force (**ABF**), a single frontline operational border agency, was established within the Department.
- 1.1.2. The Department is committed to protecting Australia's border and managing the movement of people and goods across it.
- 1.1.3. The Department's key objectives are to:
 - a. contribute to Australia's future through managed migration;
 - b. protect refugees and contribute to humanitarian policy internationally;
 - c. contribute to Australia's security through border management and Traveller facilitation;
 - d. make fair and reasonable decisions for people entering or leaving Australia, ensuring compliance with Australia's immigration laws and integrity in decision-making; and
 - e. promote Australian citizenship.
- 1.1.4. The *Migration Act 1958* (Cth), *Australian Citizenship Act 2007* (Cth) and the *Customs Act 1901* (Cth) provide the legislative framework for the business activities of the Department.
- 1.1.5. As part of its reform agenda, the Department is seeking to improve delivery of its customer service through innovative solutions that streamline client enquiry processes. At the same time, the Department must deliver contemporary services that meet community expectations and represent value for money.
- 1.1.6. The Department has been driving systematic improvements for many years, as part of core business, to better withstand future pressures.
- 1.1.7. As client expectations and world-wide, best-practice customer service standards rise, the Department is seeking to implement innovative solutions to enhance its Client Enquiry Services, especially in Service Centre environments.

1.2. Client Engagement

- 1.2.1. The Department is driving fundamental changes to the way in which we engage with our clients. We seek to be a world leader in border management and to set the global benchmark in all facets of our work. Digital and business transformation is integral to achieving this.
- 1.2.2. The Department's channels are usually the first point of contact a person or business has with the Department. Through our channels we support travellers and traders to comply with our rules and regulations, and support those seeking to become an Australian citizen. The Department is committed to strengthening our ability to minimise delays for low-risk travellers and goods while optimising measures to intercept unlawful persons and illegal goods. Through innovation and modernisation, our aspiration is to be out of sight and out of mind for law abiding travellers, migrants and businesses—a fully automated border environment where we only engage directly when we suspect unlawful activity.
- 1.2.3. While the Department is actively moving people and businesses to digital channels, and the percentage of users self-serving is increasing, the extent to which the Department can maximise the benefits of digital transformation is limited by the extent to which there is genuine self-service functionality available for users.
- 1.2.4. Australia is part of a globalised economy with increasingly complex and interconnected supply chains, and a rapidly growing volume of goods and people crossing our border. Globally, barriers to international travel have reduced, exposing Australia to increasing numbers of travellers, often with more complex travel routes.
- 1.2.5. The most recent global data tells a story. In 2015, the world's airlines transported 3.5 billion people or 100,000 flights a day over a global network of 51,000 routes. In the same year, the number of international migrants worldwide was the highest ever recorded, having reached 244 million. That represents 12 million more than in 2013 and a 41 per cent increase since 2000.
- 1.2.6. Over the years ahead, these numbers will increase at a global level, with ramifications and opportunities for Australia. It is expected that by 2017-18, the number of air and sea travellers will increase by 23 per cent; student visa grants will increase by 16.5 per cent; and citizenship applications will increase by 23 per cent.
- 1.2.7. While greater volumes of trade and travel will have clear economic benefits for Australia, there are heightened challenges to national security and border compliance and control. Redesigning our services, improving the client experience and shifting users to digital services will enable the Department to meet this increase in demand and mitigate some of these challenges.

- 1.2.8. The whole-of-government Digital Transformation Agenda requires the Department to offer high volume transactional services that are designed around user need based on the Digital Service Standard. Led by the Digital Transformation Agency (**DTA**), this agenda looks to deliver simple, clear and easy to use services, leveraging whole-of-government platforms to provide a seamless experience without having to know the inner workings of government. For the Department, this should consider the unique user base of our services, with many being non-citizens who, in many cases, are interacting with government for the first time.

2. The Requirement

2.1. Overview

- 2.1.1. The Department is seeking to engage a professional, competent service provider for the implementation and provision of Client Enquiry Services (**Services**).
- 2.1.2. The Department is seeking to improve the client experience whilst reducing the cost to the Department. The Department is seeking tendered solutions that demonstrate how the Tenderer can assist the Department to achieve this.
- 2.1.3. The Department requires transition to the Supplier (if any) to be completed by 1 July 2018 but would value an earlier transition completion if the Tenderer can demonstrate this would be:

- a. achievable by the Supplier (if any); and
- b. affordable by the Department;

whilst according with the principles in Schedule 4 (**Transition Management**).

- 2.1.4. The Services consist of being the first point of contact for the resolution of enquiries from the general public on Departmental services. In addition to client feedback, the Client Enquiries fall into four (4) main types, being:

- a. Pre-Lodgement – Eligibility and Application process for a Visa or Citizenship
- b. Post Lodgement - Status Updates or where a client cannot resolve their enquiry via self service
- c. Online Technical Assistance – errors, password resets
- d. Trade and Travel – customs duties, goods clearance process, status updates

and seven (7) main categories, being:

- e. Tourism
- f. Family
- g. Refugee & Humanitarian
- h. Work & Study

- i. Citizenship
- j. Trade & Customs (ABF)
- k. General and Foundational.

2.1.5. Client enquiries fall into four (4) 'tiers'. These tiers are:

Tier 0 – can be defined as self-service for the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. This can also include accessing various online service applications available after following prescribed log-in processes.

Tier 1 – an assisted enquiry that could have been answered by the client using publically available information, such as information regarding a visa product, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.

Tier 2 – an assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.

Tier 3 – is a final point of resolution, an enquiry that requires a Departmental Subject Matter Expert to answer the enquiry.

2.1.6. The successful tenderer (if any) will be required to resolve all Tier 1 and Tier 2 enquiries.

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2.2. Seamless Solution

- 2.2.1. The Department is seeking a service provider that is able to deliver a client enquiry service that is seamless to the Department's clients whilst at the same time assisting the Department to reduce the need for, and the number of client interactions seeking or requiring, assistance.
- 2.2.2. Particular attention is drawn to the strong desire of the Department to move clients from high cost client enquiry services channels to low cost self-service digital channels, and as such, reduce the provision of these services by the Tenderer under the Agreement (if any).

2.3. Interaction Model

- 2.3.1. The Department has developed an interaction model identifying the 'touch' points the Services will have with the Department and the structure for information that passes through these touch points. It is expected that the tendered solution will have components that will reside and operate outside the Department's ICT environment and these components must accord with the interaction model.
- 2.3.2. The successful Supplier (if any) will need to operate Departmental Line of Business systems and the tendered solution must address the client journey when moving from one ICT environment to another.

2.4. System Releases

- 2.4.1. Departmental system releases implement a range of ICT changes as a package, enabling multiple integrated systems to be enhanced, upgraded or implemented in a single systems outage.
- 2.4.2. These large scale Departmental release cycles occur approximately three times a year as follows:
 - a. Technical Release March;
 - b. Business Release June; and
 - c. Business Release November.

Note that the Departmental release cycle may be rescheduled.

- 2.4.3. The Department is progressing a website review and improvement project. The Department's website is hosted in SharePoint 2013. The Department expects to remain with SharePoint for at least 12-18 months, potentially including an upgrade to SharePoint 2016.
- 2.4.4. The Department's website review and improvement project is planned to rely on the Supplier's tools for websearch and dynamic content creation based on client insight, as described in the interaction model and the Architecture Requirements. The Department's key milestones for the project that may impact the Supplier's transition plan are:
 - a. 1 November 2017 – access to the Supplier's capability in a Dev/Integration environment.

- b. 9 December 2017 – access to the Supplier's capability for Production use.

2.5. Precedence and Criticality of Requirements

2.5.1. The relative importance of the requirements are outlined below.

Relative Importance	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

3. Enquiry Profiles

3.1. Enquiry Volumes

3.1.1. For the purposes of responding to the RFT the following information is provided to inform the Tenderer's response in regards to expected minimum performance expectations of the solution. However, the Department does not guarantee any future volumes.

Call Volumes for Sydney Service Centre

Month	Calls received								Total
	CITIZEN	DOB-IN	FAM REF	STAT RES	TOURIST	TRADER	WORK RIGHTS	WORK STUDY	
Feb 2016	56,869	3,996	27,555	2,396	23,797	6,572	9,613	23,717	154,515
Mar 2016	54,945	4,051	27,431	2,332	22,877	6,728	8,929	21,814	149,107
Apr 2016	54,304	3,458	26,183	2,034	21,007	6,470	7,653	17,897	139,006
May 2016	58,444	3,772	27,206	2,146	21,402	6,752	7,997	18,465	146,184
June 2016	53,301	3,498	24,413	1,974	20,092	6,465	7,540	17,861	135,144
Jul 2016	57,213	3,753	24,012	2,735	20,564	6,330	8,320	24,717	147,644
Aug 2016	65,062	4,159	25,931	4,386	23,953	8,037	8,735	24,363	164,626
Sep 2016	53,533	3,629	22,163	3,704	21,957	7,451	8,014	16,854	137,305
Oct 2016	50,910	3,376	22,058	3,402	22,602	7,150	7,488	15,098	132,084
Nov 2016	55,151	3,681	24,637	4,177	24,736	6,954	8,228	17,234	144,798
Dec 2016	38,887	2,781	19,592	3,564	20,985	6,057	5,950	13,548	111,364
Jan 2017	46,626	2,344	19,559	-	4,535	26,690	4,149	42,919	146,822
Feb 2017	43,471	2,010	19,671	-	4,464	31,240	4,278	44,806	149,940
Total	688,716	44,508	310,411	32,850	252,971	132,896	96,894	299,293	1,858,539

Call Volumes for Americas Service Centre

	Calls received						
Month	ETA/Bus/WHM	Students	Temporary	Permanent	Citizenship	General Enquiries	Total
Jan-16	5,530	1,804	436	741	497	2,419	11,427
Feb-16	5,544	1,149	436	895	542	2,464	11,030
Mar-16	5,425	1,054	461	832	580	2,386	10,738
Apr-16	5,159	1,308	479	872	565	2,294	10,677
May-16	5,547	1,549	430	790	524	2,437	11,277
Jun-16	5,774	1,744	509	747	479	2,369	11,622
Jul-16	6,394	1,944	575	691	544	2,331	12,479
Aug-16	7,599	1,555	469	812	581	2,819	13,835
Sep-16	7,116	1,296	444	688	564	2,679	12,787
Oct-16	8,255	1,202	409	724	507	3,157	14,254
Nov-16	8,205	1,664	403	688	511	2,936	14,407
Dec-16	5,524	1,162	254	325	224	1,804	9,293
Yearly total	82,818	19,970	5,797	9,387	6,599	32,649	157,220
Jan-17	6,746	2,539	492	582	481	2,554	13,394

Call Volumes for Europe Service Centre

	Calls received										
Month	English	German	French	Italian	Spanish	Croatian	Serbian	Russian	Greek	Polish	Total
Jan-16	8,506	1,587	815	510	228	102	1,182	1,619	22	228	14,799
Feb-16	8,411	1,346	765	531	345	133	901	1,963	28	262	14,685
Mar-16	7,544	1,040	645	544	309	105	574	1,828	39	167	12,795
Apr-16	6,610	859	712	614	252	84	608	1,640	22	15	11,416
May-16	7,229	1,055	621	630	451	106	689	1,178	24		11,983
Jun-16	8,306	1,508	871	723	476	104	684	1,057	2		13,731
Jul-16	8,864	1,829	843	715	791	134	652	1,154	54		15,036
Aug-16	8,714	1,812	890	674	553	144	758	1,298	19		14,862
Sep-16	8,604	1,856	857	855	378	151	836	1,360	29		14,926
Oct-16	7,934	1,963	806	929	338	213	278	681	40		13,182
Nov-16	7,202	1,908	872	819	414	246	421	1,076	58		13,016
Dec-16	4,366	1,179	712	598	309	199	290	1,542	28		9,223
Yearly Total	92,290	17,942	9,409	8,142	4,844	1,721	7,873	16,396	365	672	159,654

Email Volumes for Sydney Service Centre

Month	Emails Received
Jan-16	2,025
Feb-16	2,092
Mar-16	2,068
Apr-16	2,472
May-16	2,443
Jun-16	2,244
Jul-16	1,368
Aug-16	1,854
Sep-16	1,957
Oct-16	2,217
Nov-16	1,728
Dec-16	2,032
Yearly Total	24,500

The Europe Service Centre also receives approximately 3,500 email enquiries a month.

The Americas Service Centre does not support email enquiries.

Commentary on Tiering and Seasonality of Calls for Each Intent at Sydney Service Centre

IVR	Intent	Tier split		Peaks & Troughs (reasons driving calls to Service Centre)
		Tier 1	Tier 2	
Tourist	Tourist	70%	30%	Visitor Visas usually experience peak periods during major public holiday periods such as Christmas/NY, Easter and mid-year for those countries with holiday periods in middle of the year (usually from Northern Hemisphere). In 2016 there were numerous changes that drove calls to the Service Centre. These included delays in processing times for Sponsored Visitors Visas and the introduction of the Visitor Visa frequent traveller stream.
	Family / Refugee & Humanitarian	70%	30%	Family Visas don't experience peak periods and remain consistent throughout the year.
WorkStudy	Ref & Hum	60%	40%	Refugee & Humanitarian Visas do not experience peak periods unless there are changes to legislation that impact this visa stream. In 2016, the Syrian Crisis hotline was redirected to the Service Centre for members of the public concerned and concerns over the US government change of President. This resulted in increased calls for approximately 2 months.
	Workers	55%	45%	Workers Visas remain consistent throughout the year. Usually changes to the Skilled Occupational List can drive calls to the Service Centre. The SOL is typically updated once a year.
	GSM	70%	30%	General Skilled Migration (GSM) visas remain consistent throughout the year apart from changes to the Skilled Occupation List (SOL).
	Students	50%	50%	Student visas generally experience 2 peak periods throughout the year due to student visas expiring (15 March and 15 September). In 2016, there were numerous changes and events that increased the calls at the SSC. <ul style="list-style-type: none"> Media reports claiming that DIBP is refusing Indian student visa applications on the basis that applicants have done their Class XII from a school affiliated with the Punjab School Education Board (PSEB) Change to student visa policy – the new subclass 500 was introduced (reducing 5 visas to 1) and during transition some clients experienced delays in receiving their acknowledgement letter or having their bridging visa granted for their online student visa application.

IVR	Intent	Tier split		Peaks & Troughs (reasons driving calls to Service Centre)
		Tier 1	Tier 2	
Citizenship	Citizenship	50%	50%	Citizenship can generate a high influx of calls towards the end of the year with client's requesting to organise their Citizenship ceremony for Australia Day. In 2016, changes that occurred included the increase of fees on 1 January, additional pathway to PR for non-protected SCV holders (NZ citizens), Amalgamation of councils announced affecting ceremonies, Federal election - clients were unable to receive their certificates at their ceremony which impacted those clients who wished to apply for Passports in order to travel, Q-Flow Melbourne Metro clients introduced, continuous phone calls on Assurance Cases (7,705 Assurance applications on-hand during the month of December).
Trader (Customs)	Trader (Customs)	40%	60%	Limited data.
Workrights	Workrights	40%	60%	Work-rights phone calls remain consistent throughout the year. Most calls are transferred to the Work Study intent due to questions about 457/186/187 visas.
Dob-In	Dob-In	100%	0%	Dob-In calls remain consistent throughout the year.
Status Resolution	Status Resolution	80%	20%	Status Resolution calls usually peak after Students peak due to unlawful students (March and September).

4. Business Requirements

4.1. Overview

- 4.1.1. The Business Requirements describe the requirements that the Department is seeking to meet through this RFT process. The tendered solution against the Business Requirements will form Schedule 2 (**Business Requirements and Supplier's Solution**) to the Contract.

4.2. Structure

- 4.2.1. The Business Requirements comprises the following:

Part A – Operational Requirements, which in turn consists of:

- (a) Implementation Requirements;
- (b) General Requirements;
- (c) Service Requirements; and
- (d) Architecture Requirements.

Part B – Future Requirements;

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Part D – Annexure.

- 4.2.2. The Future Requirements (Part B) are a group of Business Requirements that relate to the expected future operations of the Department. The Future Requirements will become part of the Services as they are requested by the Department (at its sole discretion) during the Term of any resultant Agreement.

4.3. Business Requirements

PART A – OPERATIONAL REQUIREMENTS**Implementation Requirements**

The Implementation Requirements set out the specific requirements of the successful Supplier (if any) in implementing the Services. The Implementation Requirements do not limit any of the other requirements of the Agreement.

	Implementation Requirements	Relative Importance
IR.01.01	The Supplier is to work collaboratively with the Department to ensure the Services are implemented and Transitioned in a smooth, effective and efficient manner.	Essential
IR.01.02	The Supplier is to use its best endeavours to minimise risk when Transitioning.	Essential

General Requirements

The General Requirements set out the core services to be delivered.

	General Requirements	Relative Importance
GR.01.01	As and when required the Supplier will work collaboratively with the Department to co-design solutions for new requirements and/or future enhancements to the Services.	Essential
GR.01.02	The Supplier will seek to continuously improve the delivery of the Services and the experience of the Clients.	Essential
GR.01.03	The Supplier is to develop and maintain an Enquiry Handling Operations Plan.	Essential
GR.01.04	The Supplier is to make changes to the Enquiry Handling Operations Plan within 10 Business Days or as otherwise agreed with the Department when changes are reasonably requested by the Department.	Essential
GR.01.05	The Supplier is to develop and maintain an IT Operations Plan.	Essential

	General Requirements	Relative Importance
GR.01.06	The Supplier is to make changes to the IT Operations Plan within 10 Business Days or as otherwise agreed with the Department when changes are reasonably requested by the Department.	Essential
GR.01.07	The Supplier is to produce and keep up to date all Plans as required by the Agreement, detailing the activities required to successfully establish and deliver the Services. All Plans must be approved by the Department before they are implemented.	Essential
GR.01.08	The Supplier is to implement the Plans as approved by the Department.	Essential
GR.01.09	The Supplier is to produce and keep up to date a Procedures Manual.	Essential
GR.01.10	The Supplier is to obtain approval from the Department prior to commencing the delivery of the Services.	Essential
GR.01.11	The Supplier is to establish and maintain the Supplier Facilities in accordance with Schedule 10 (Facilities).	Essential
	Note: The Supplier must also ensure that all deficiencies identified in a site inspection report are corrected within the timeframe specified by the Department.	
GR.01.12	The Supplier is to provide and only use signage that: a. meets Australian Government specifications; and b. is approved by the Department.	Essential
GR.01.13	The Supplier is not to insert logos or other branding on the Department's documents, systems or material without the prior written consent of the Department.	Essential
GR.01.14	The Supplier is not to represent itself as an agent or representative of the Department or the Commonwealth of Australia.	Essential

	General Requirements	Relative Importance
GR.01.15	The Supplier is not to use official logos of the Australian Government without the express consent of the Department.	Essential
GR.01.16	The Supplier is to obtain the Department's written consent prior to any co-location arrangements and must comply with any conditions imposed by the Department when providing any such consent.	Essential
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GR.01.18	The Supplier is responsible for the ongoing delivery of training to Supplier Personnel as and when required.	Essential
	<p>Note: The Department will provide relevant information pertaining to the Department's operations. This may, in some instances, include the training materials.</p> <p>Where training material is required due to a change in Departmental policy or operations, the Supplier will work with the Department to develop that training material.</p>	
GR.01.19	The Supplier is to redirect Client Enquiries to the digital Channel where applicable.	Essential

Services Requirements

The Services Requirements consists of a series of grouped high level requirements. The high level requirement titles do not limit the scope of the requirements that support them.

HLR.01	Enquiry Handling	Relative Importance
HLR.01.01	The Supplier is to operate a Client Enquiry Service on behalf of the Department.	Essential
HLR.01.02	The Supplier is to receive Client Enquiries during the Hours of Operation specified in the Part E - Annexure.	Essential
HLR.01.03	The Supplier is to resolve Client Enquiries in a timely manner with the fewest possible interactions.	Essential
HLR.01.04	The Supplier is to promote the use of the Department's Website and Online Services.	Essential
HLR.01.05	The Supplier is to receive Clients Enquiries using, but not limited to: <ul style="list-style-type: none"> a. Phone; b. Webforms; c. Social Media; and d. Webchat. 	Essential
HLR.01.06	The Supplier is to ensure that, unless otherwise agreed, all Client Enquiries are received and remain Onshore at all times.	Essential
HLR.01.07	The Supplier is only to use the Department agreed Channels for Client Enquiries.	Essential
HLR.01.08	The Supplier is to publish to approved Social Media platforms content as requested by the Department.	Essential
HLR.01.09	The Supplier is to make outbound calls to Clients as required by the Department.	Essential

HLR.01.10	The Supplier is not to provide Advice to any Client, except as expressly permitted by the Department. The Supplier is, at the commencement of handling each Enquiry, to inform Clients they can provide information only and cannot provide Advice.	Essential
HLR.01.11	The Supplier is to, at the commencement of handling each Enquiry, inform Clients of the mandated Privacy of Information protocols and Enquiry recording practices.	Essential
s47C		
HLR.02	Specific Enquiry Management Services	
HLR.02.01	The Supplier is to escalate Client Enquiries in accordance with the Escalation Matrix.	Essential
HLR.02.02	The Supplier is to have the required knowledge in the Functional Groups and Enquiry Intentions in order to resolve Client Enquiries.	Essential
HLR.02.03	The Supplier is to comply with the Multicultural Language Services Guidelines for Australian Government Agencies.	Essential
	Note: Translating and interpreting services for all Clients are to be provided by the Department.	
HLR.02.04	The Supplier is to only use the Department Line of Business Systems where it is necessary to do so in order to resolve a Client Enquiry.	Essential
HLR.02.05	The Supplier is to use the Department Information Sources defined in the Enquiry Handling Operations Plan to resolve Client Enquiries.	Essential
HLR.02.06	The Supplier is to complete a successful POI check with the Client prior to providing them with any Client, case or application data.	Essential

HLR.02.07	<p>The Supplier is to record and archive all Client interactions. The minimum record collection requirements are:</p> <ul style="list-style-type: none"> a. the time and date of the interaction; b. the channel over which the Enquiry took place and the contact details of the Client as appropriate to that channel; c. the name and a unique employee identifier of the Supplier staff member involved, where one is involved; d. the name and other identifying details of the Client, where these have been established; e. a sound file of all voice-based interactions; and f. copies in English, and the original language of the Client Enquiry and all Supplier responses for Client Enquiries not conducted in English, of all text-based interactions. 	Essential
HLR.02.08	The Supplier is to provide on request by the Department transcripts in English, and the original language of the Client Enquiry and all Supplier responses for Client Enquiries not conducted in English, of all voice-based interactions.	Essential
HLR.02.09	The Supplier is to make all records available to the Department upon request and/or via regular quality assurance and reporting cycles as agreed with the Department.	Highly Desirable
HLR.02.10	The Supplier is to adhere to the Department's Records Management Requirements and the Supplier's IT Operations Plan in the storage, archive and destruction of Client interactions for all Channels (see Schedule 13 (Applicable Requirements)).	Essential
HLR.02.11	The Supplier is to maintain a Client interaction history, for all Channels. The Supplier is to identify and report multi or repeated interactions by a Client.	Essential
HLR.02.12	The Supplier is to measure and report on Client experience in accordance with the method described in the Enquiry Handling Operations Plan.	Essential

HLR.02.13	The Supplier is to make the data and analysis related to measuring and reporting on Client experience available to the Department upon request and/or via regular reporting cycles as required by the Department.	Essential
HLR.02.14	<p>The Supplier is not to negatively affect the Client experience when, or apply any Service Charge s47C [REDACTED] for providing input into, measuring Client experience.</p> <p>s47C [REDACTED]</p>	Essential
HLR.03	Client Data Entry and Update Services	
HLR.03.01	<p>When requested by the Client, the Supplier is to collect the following information from the Client:</p> <ul style="list-style-type: none"> a. Address and Passport details (929 form functions); b. Contact details; c. Change in circumstances or status (Marital status, change of employer); <p>and update the appropriate Line of Business systems.</p> <p>The Supplier is to conduct a successful POI check prior to performing this requirement.</p>	Essential
HLR.03.02	The Supplier is to update Client Data in all Line of Business Systems accessed during a Client Enquiry in accordance with the Department approved Data Entry and Update Services in the Enquiry Handling and Operations Plan. The Supplier must conduct a successful POI check prior to performing this requirement.	Highly Desirable
HLR.04	Knowledge Management Requirements	
HLR.04.01	The Supplier is to use a knowledge management platform as defined in the Enquiry Handling Operations Plan to resolve Client Enquiries.	Essential

HLR.04.02	The Supplier is to incorporate changes to the knowledge management platform as directed by the Department.	Essential
HLR.04.03	The Supplier is to provide recommendations to the Department on updates to the Department Information Sources based on the Supplier's understanding of best-practice for information management and Enquiry trends.	Highly Desirable
HLR.05	Escalation Requirements	
HLR.05.01	The Supplier is to resolve all Client Enquiries in accordance with the approved Escalation Matrix.	Essential
HLR.05.02	The Supplier is to escalate Client Enquiries to the Department in accordance with the Enquiry Handling Operations Plan as approved by the Department.	Essential
HLR.05.03	The Supplier is to only use the Department's after hours contact point in accordance with the process defined in the Enquiry Handling Operations Plan.	Essential
HLR.06	Reporting Requirements	
HLR.06.01	The Supplier is to provide all Reports required in the Agreement to the required quality and in the required format (see Schedule 11 (Reporting)).	Essential

Architecture Requirements

AR.01	General	Relative Importance
AR.01.01	The Supplier is to provide information reasonably requested by the Department to assist the Department document the architecture of the Supplier's solution as it concerns the movement or storage of Departmental Data and Client Data.	Essential

AR.01.02	The Supplier is to manage records in accordance with the IT Operations Plan as approved by the Department and the Department's Records Management Policy.	Essential
AR.01.03	The Supplier is to ensure all online services are compliant with the latest version of the WCAG 2.0.	Essential
AR.02	Website Search	
AR.02.01	<p>The Supplier is to provide a search tool that links seamlessly from the Department website, in accordance with the IT Operations Plan as approved by the Department. The Supplier search tool should:</p> <ul style="list-style-type: none"> a. Display with the same look and feel as the Department website; b. Enable user controls and filters agreed with the Department; c. Should not open a new window or tab by default to conduct any search; d. Should not, without the express written approval of the Department, include any advertising or links to any material outside the Department's Website; e. Provides a search across all content that is available on the Department website, and other sources as agreed with the Department, updated as required to ensure search results match the published content; and f. Be informed by factors including the Client's explicit search query, navigation on the website and the Supplier's understanding of Enquiry trends. 	Highly Desirable
AR.02.02	The Supplier is to provide the ability for the Department's website to use insights from the Supplier's search tool to assist in the dynamic presentation of content to Clients.	Highly Desirable

AR.02.03	<p>The Supplier is to:</p> <ul style="list-style-type: none"> a. Provide a code fragment or fragments for the Department to include on the webpages that will initiate the Supplier's search tool, monitor navigation and inform the display of dynamic content from the Department's website; and b. Assist the Department with security assessment of the Supplier's search tool and code fragment or fragments. <p>Note: The Department will not deploy the Supplier's code fragment or fragments to the Department's production website until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Highly Desirable
AR.02.04	The Supplier is to provide a process for determining whether a search using the Supplier search tool has resolved a Client Enquiry.	Highly Desirable

AR.03	Phone/IVR	
AR.03.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Provide the capability for Clients to lodge Client Enquiries by voice Channel, including public phone networks as a minimum; b. Provide the capability to initiate calls to Clients; c. Provide a means of transferring calls between the Supplier and the Department; d. Provide a means for accessing the interpreter services; e. Provide the lowest cost call path for all calls where the costs are incorporated in to s47C Service Charges; f. Provide recordings and transcripts of all voice Client Enquiries (in English and the language of the call where the call is not conducted in English) to the Department; and g. Provide a report to the Department of all voice Client Enquiries where the transcript of the conversation matches criteria specified by the Department. 	Essential
AR.04	Webform	
AR.04.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Operate a Webform platform that allows Clients to lodge Client Enquiries and receive responses from operators at all Tiers; b. Operate the Webform platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant Client Data, including Clients being able to only access and update the Client Data they have created; c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the Webform platform; 	Essential

	<p>d. Manage access to the Webform platform for Departmental staff as requested by the Department;</p> <p>e. Provide an efficient and secure facility for Clients to establish, confirm and recover account details;</p> <p>f. Make updates to Webforms as requested by the Department to support Client Enquiries that are to be handled by the Department;</p> <p>g. Provide a code fragment for the Department to include on the webpages that will initiate the Supplier's Webform platform;</p> <p>h. Assist the Department with security assessment of the Supplier's Webform platform and code fragment;</p> <p>Note: The Department will not deploy the Supplier's code fragment to the Department's production website or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p> <p>i. Provide infrastructure information to the Department that allow the Department to authorise the Service Provider to send emails on the Department's behalf;</p> <p>j. Provide details of the Supplier's systems that will send emails on behalf of the Department; and</p> <p>k. Assist the Department with security assessment of the Supplier's systems that will send emails on behalf of the Department.</p> <p>Note: The Department will not enable the Supplier to send emails on behalf of the Department's until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	
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AR.05	Webchat	
AR.05.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Operate a Webchat platform that assists to resolve Client Enquiries; b. Operate the Webchat platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant Client Enquiries; c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the Webchat platform; d. Manage access to the Webchat platform for Departmental staff as requested by the Department; e. Provide a code fragment for the Department to include on the webpages that will initiate the Supplier's Webchat platform; and f. Assist the Department with security assessment of the Supplier's Webchat platform and code fragment. <p>Note: The Department will not deploy the Supplier's code fragment to the Department's production website or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Essential
AR.06	Ticket Management	
AR.06.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Operate a Ticket Management Platform that supports Client Enquiries at all Tiers and from all means of lodgement; b. Operate the Ticket Management Platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update 	Highly Desirable

	<p>relevant Client Data;</p> <ul style="list-style-type: none"> c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the Ticket Management Platform; d. Manage access to the Ticket Management Platform for Departmental staff as requested by the Department; e. Provide a means to initiate an email to a Client to notify them of an update to a ticket, including a ticket initiated by a Service Centre, for their attention; f. Provide a means to initiate an email to a Department personnel when there is an update to a ticket or a creation a new ticket for their attention; g. Provide a means for the Department to request, modify or cancel rules for the routing of tickets to Department personnel; h. Manage routing rules to Departmental personnel as requested by the Department; i. Provide access to the Department for the full conversation of all Client Enquiries from all means of lodgement; j. Provide a report to the Department including the full transcript of all interactions of all Enquiries that match criteria specified by the Department; k. Integrate the Ticket Management Platform with the Department's telephony system such that a phone call transferred between an operator not using the Department's telephony system and one using the Department's telephony systems allows the receiving operator to be aware of the ticket history before answering the phone call; and l. Assist the Department with security assessment of the Supplier's Ticket Management Platform. <p>Note: The Department will not allow the Supplier to store any Client details in the Ticket Management Platform until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	
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AR.06.02	<p>The Supplier is to provide the Department with ongoing access to the data in the Supplier's Ticket Management Platform until the latter of:</p> <ul style="list-style-type: none"> a. the end of the Exit Period; or b. the Supplier has provided the data to the Department in a form approved by the Department. 	Highly Desirable
AR.07	Knowledge Management	
AR.07.01	<p>The Supplier is to, in accordance with the IT Operations Plan as approved by the Department:</p> <ul style="list-style-type: none"> a. Supply and operate a knowledge management platform that supports Client Enquiries at all Tiers and from all means of lodgement; b. Operate the knowledge management platform such that Authorised Personnel, and only Authorised Personnel, including Department personnel, are able to access and update relevant content; c. Provide a means for the Department to request, modify or cancel access for Departmental staff to the knowledge management platform; d. Manage access to the knowledge management platform for Departmental staff as requested by the Department; e. Transition in to the knowledge management platform before commencing delivery of the Services based on the content provided by the Department at least 20 Business Days prior; and f. Assist the Department with security assessment of the Supplier's knowledge management platform, as required. <p>Note: The Department will not provide content for the Supplier's knowledge management platform or allow it to be used from the Department's network until the security assessment has been completed, including a risk assessment and acceptance of the residual risks and risk treatments by the responsible Departmental executive.</p>	Highly Desirable

AR.07.02	<p>The Supplier is to provide the Department with ongoing access to the data in the Supplier's knowledge management platform until the latter of:</p> <ul style="list-style-type: none"> a. the end of the Exit Period; or b. the Supplier has provided the data to the Department in a form approved by the Department. 	Highly Desirable
AR.07.03	<p>The Supplier is to provide the Department's other service providers with ongoing access to the data in the Supplier's knowledge management platform for the purposes of allowing those other service providers to provide services to the Department and the Department's clients.</p>	Highly Desirable

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PART D – ANNEXURE

The information within this Part D – Annexure provides detail to support the Business Requirements.

Channels	<p>The Department Channels are:</p> <ul style="list-style-type: none"> a. Digital; b. Phone; c. Paper; and d. In-person. <p>The Department agreed Channels are:</p> <ul style="list-style-type: none"> a. Digital; and b. Phone
Enquiry Intentions	<p>The Enquiry Intentions reflect the nature of the enquiry. The Enquiry Intentions are generally, but are not limited to:</p> <ul style="list-style-type: none"> a. Pre Lodgement – Eligibility and Application process for a Visa or Citizenship b. Post Lodgement – Status Updates or where a Client cannot resolve their enquiry via self service c. Online Technical Assistance – errors, password resets d. Trade and Travel – customs duties, goods clearance process, status updates e. Feedback – complaints, compliments or suggestions
Functional Groups	<p>The Functional Groups reflect the business of the Department. The current functional groups are:</p> <ul style="list-style-type: none"> a. Tourism b. Family c. Refugee & Humanitarian d. Work & Study e. Citizenship f. Trade and Customs
Go-Live Date	The Go-Live Date is 1 July 2018.
Hours of Operation	The hours of operation for the services are 09:00 – 17:00 Monday to Friday for any potential Client anywhere in the world.

Attachment C – Service Levels**1. Introduction**

1.1 This Attachment C advises the Tenderer of the Service Levels that the Department intends to implement with the Agreement, if any.

1.2 The objectives of the Service Levels are to:

- 1.2.1 ensure that the Tenderer's performance meets the Department's business and regulatory requirements;
- 1.2.2 give sole responsibility to the Tenderer for the end-to-end Service;
- 1.2.3 provide a mechanism designed to highlight performance failures;
- 1.2.4 provide measurements and information for identifying causes of failure and rectifying them;
- 1.2.5 ensure root causes of performance failures will be identified and resolved;
- 1.2.6 provide incentive to the Tenderer to perform the Services at the required level by, where there is a Service Level Default, providing restrictions on:

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- (c) sharing details of the Tenderer's performance against the Service Levels with the Five Country Conference group;

- 1.2.7 address the continuous improvement of Service Levels and Service Credits;
- 1.2.8 in respect of Services for which a Service Charge is applicable, provide a price adjustment to the Department where Service Levels will be not met, through the application of Service Credits offsetting any claim for Service Charges (if any);

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1.3 The Tenderer will be required to perform the Services so as to achieve or exceed the Service Levels and Service Credits at all times.

1.4 The Service Levels and Service Credits and their respective measurements, as set out in Schedule 6 (**Service Levels and Service Credits**) to the Draft Contract, will be intended to measure whether the Tenderer is meeting the levels of performance necessary to satisfy the Department's business and regulatory requirements. Accordingly, the Service Levels and Service Credits:

- 1.4.1 will be regularly reviewed by the Parties in accordance with **clause 9.2** of the **Draft Contract**;
- 1.4.2 will be subject to continuous improvement objectives, as set out in Section 2.3 of Schedule 6 (**Service Levels and Service Credits**) and **Clause 9.2** of the **Draft Contract**; and
- 1.4.3 may be added to, amended or deleted during the Term, in accordance with Section **Error! Reference source not found.** of Schedule 6 (**Service Levels and Service Credits**),

in order to achieve the accurate and consistent measurement of the Tenderer's performance of the Services.

2. Service Levels

- 2.1 The Tenderer is to refer to Schedule 6 (**Service Levels and Service Credits**) for the Service Levels.



Australian Government

Department of Immigration and Border Protection

DEED OF AGREEMENT

BETWEEN

COMMONWEALTH OF AUSTRALIA

AND

[INSERT SUPPLIER NAME]

in relation to

Provision of Client Enquiry Services

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SERVICES AGREEMENT

DEED OF AGREEMENT DATED [INSERT DATE]

BETWEEN

COMMONWEALTH OF AUSTRALIA, as represented by the

Department of Immigration and Border Protection (the "**Department**")

ABN 33 380 054 835 of 6 Chan Street BELCONNEN ACT 2617 Australia

AND

[INSERT SUPPLIER NAME]

[INSERT SUPPLIER ADDRESS] (the "**Supplier**")

RECITALS:

- A. The Department requires the management of Client Enquiry Services for persons lodging enquiries regarding visa, citizenship or trade applications or permits (**Services**). The Department also requires the provision of any incidental services reasonably and necessarily required for or related to the proper performance or function of the Services, as specified in the Agreement.
- B. The Supplier has fully informed itself on all aspects of the work required to be performed under the Agreement. In particular, the Supplier is aware of the need to maintain the Department's good reputation in all Services it performs.
- C. The Commonwealth has agreed to accept the Supplier's offer to provide the Services upon the terms and conditions contained in the Agreement.
- D. The Department and the Supplier have agreed to the following objectives for the Agreement:
 - (a) achieve and maintain an overall movement of clients from high-cost in-person channels to lower-cost self-service digital channels;

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- (c) achieve an overall improvement of Service Levels to meet industry standards and benchmarks.

THE PARTIES AGREE as follows:

1. INTERPRETATION

- 1.1** In the Agreement, unless the contrary intention appears:

- (a) words importing a gender include any other gender;
- (b) words in the singular include the plural and words in the plural include the singular;
- (c) clause headings are for convenient reference only and have no effect on the interpretation of the Agreement;
- (d) words importing a person include a partnership and a body, whether corporate or otherwise;
- (e) a reference to dollars is to Australian dollars;
- (f) reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision and any regulation and other instrument made under it;
- (g) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (h) the Schedules and any attachments form part of the Agreement;
- (i) reference to a Schedule (or an attachment) is a reference to a Schedule (or an attachment) to the Agreement, including as amended or replaced from time to time by agreement in writing between the Parties;
- (j) a reference to a clause of the Agreement is a reference to a clause of the Terms and Conditions;
- (k) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (l) a word or expression defined in the *Corporations Act 2001* (Cth) has the meaning given to it in the *Corporations Act 2001* (Cth);
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) a reference to a party is to a party to the Agreement, and includes the party's executors, administrators, successors and permitted assignees and substitutes; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.2 Guidance on Construction of the Agreement

- 1.2.1 The Agreement records the entire agreement between the Parties in relation to its subject matter.
- 1.2.2 No variation of the Agreement is binding unless it is agreed in writing and signed by both Parties, in accordance with the Change process detailed in the Agreement.

- 1.2.3 Any reading down or severance of a particular provision does not affect the other provisions of the Agreement.
- 1.2.4 Subject to clause 6.4, where any conflict arises between the Terms and Conditions, or if there is any inconsistency between the provisions of the Agreement, the following descending order of precedence applies:
- (a) the Terms and Conditions (being clauses 1 to 52) and Schedule 1;
 - (b) Schedules 2, 4, 5 then 3;
 - (c) Annexes to Schedule 4;
 - (d) the remaining Schedules;
 - (e) any other Annex; and
 - (f) any referenced document,
- so that the provision in the higher ranked document will prevail, to the extent of the inconsistency.
- 1.2.5 A rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Agreement or any part of it.

1.3 Trustee Supplier

- 1.3.1 If the Supplier acts as trustee of a trust, in relation to the Agreement:
- (a) it is liable both personally and in its capacity as trustee of that trust;
 - (b) it will not assign, transfer, mortgage, charge, release, waive, encumber or compromise, its right of indemnity out of the assets of that trust, but will retain and apply such indemnity only towards meeting its obligations under the Agreement;
 - (c) it will not retire, resign or by act or omission effect or facilitate a change to its status as the sole trustee of that trust; and
 - (d) it represents and warrants that:
 - (i) such trust has been duly established and currently exists;
 - (ii) it is the duly appointed, current and only trustee of that trust;
 - (iii) as such trustee it has the power to enter into and perform its obligations under the Agreement;
 - (iv) it has an unqualified right of indemnity out of the assets of that trust in respect of its obligations;
 - (v) conflict of interest and duty affecting it as such trustee (and/or its directors, if any) does not arise, OR otherwise is overcome by the terms of the relevant trust deed; and

- (vi) no breach of the relevant trust deed exists or would arise.

2. DEFINITIONS

- 2.1 In the Agreement unless the contrary intention appears, capitalised terms have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

3. AUTHORITY TO ACT

- 3.1 Other than as authorised under this clause 3, the Supplier is not authorised to, and must not:

- 3.1.1 enter into any contracts, commitments or other legal documents or arrangements in the Department's name, or on the Department's behalf; or

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- 3.2 The Supplier acknowledges and agrees that it is an independent contractor and is not, and must not purport to be, a partner or joint venturer of the Department.

- 3.3 The Supplier must ensure that it, and any Supplier Personnel who have been authorised by the Department to exercise the authorities (referred to for the purposes of this clause 3 as Designated Agents), exercises the authorities:

- 3.3.1 in good faith and in the best interests of the Department;

- 3.3.2 to the reasonable satisfaction of the Department;

- 3.3.3 diligently, effectively and to a high professional standard with due care and skill;

- 3.3.4 strictly in accordance with:

- (a) the requirements of the Agreement, including Schedule 13 (**Applicable Requirements**), and in particular all Laws, policy and practice requirements relating to the Commonwealth's financial management framework, including the *Public Governance, Performance and Accountability Act 2013* (Cth), the *Public Governance, Performance and Accountability Rule 2014* and the *Auditor-General Act 1997* (Cth); and

- (b) all guidelines and directions that the Department notifies from time to time to the Supplier; and

- 3.3.5 where expending moneys on behalf of the Department or committing the Department to the expenditure of funds, as a fiduciary.

- 3.4 The Supplier must comply with the Agreement and in particular with any restrictions on the scope of its authority set out in this clause 3 and as advised by the Department.

- 3.5 The Supplier must ensure that:

- 3.5.1 only Designated Agents are able to handle other CRF money as defined in the *Public Governance, Performance and Accountability Act 2013* (Cth) or perform services under the Agreement involving the handling of other CRF money; and
- 3.5.2 each Designated Agent acknowledges in writing substantially in the form set out at Schedule 15 (**Authority to Act Form**), that the Designated Agent commits to exercise his or her powers in accordance with this clause 3.
- 3.6 The Department may at its absolute discretion at any time, and for any reason, revoke, amend or suspend the Supplier's authorities referred to in this clause 3 and Schedule 2 (**Business Requirements and Supplier's Solution**) whether in whole or in part. Where the Department exercises its rights under this clause 3.6 the Parties will negotiate in good faith any changes to the Supplier's Solution ^{s47C} [REDACTED].

4. TERM OF AGREEMENT

- 4.1 Unless otherwise Terminated in accordance with the provisions of the Agreement or otherwise in accordance with Law, the Agreement takes effect on the date of Agreement execution (the "Effective Date") and will continue until the Expiry Date (the "Term").
- 4.2 The Term of the Agreement may be extended by the Department for Option Period(s) as specified in Schedule 1 (**Definitions and Agreement Particulars**), by providing the Supplier with at least three (3) months' written notice prior to the expiry of the Term of the Agreement. Any extension under this clause 4.2 must be on the then existing terms and conditions (except this clause 4.2), and as otherwise notified to the Supplier by the Department. The pricing for any extension period under this clause 4.2 must be in accordance with Schedule 5 (**Pricing**).
- 4.3 The Supplier must provide Exit Assistance in accordance with the provisions of Schedule 4 (**Transition Management**).

5. ANNUAL REVIEW OF THE AGREEMENT

- 5.1 At least every twelve (12) months during the Term of the Agreement, and commencing on the Effective Date, the Parties must conduct a review of the overall operation of the Agreement (an "**Annual Review**"). Such Annual Review, at a minimum, must include a review of:

- 5.1.1 the Service Levels and Service Credits specified in clause 9 below and Schedule 6 (**Service Levels and Service Credits**);
- 5.1.2 the Service Charges ^{s47C} [REDACTED] as described in Schedule 5 (**Pricing**); and
- 5.1.3 the Supplier's Solution to ensure that the Supplier's Solution continues to meet and fulfil the Services Requirements,

and, if such review establishes that the Supplier's Solution does not meet and fulfil the Services Requirements, the Supplier must implement changes to the Supplier's Solution as necessary to meet and fulfil such Services Requirements, without any change to the Service Charges ^{s47C} [REDACTED], in accordance with the Solution Change Procedure detailed in Schedule 8 (**Change Control**).

6. SCOPE OF THE SERVICES

6.1 In consideration of being granted the entitlement to receive payment of the:

6.1.1 Service Charge from the Department; or

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from the relevant Go-Live Date(s), the Supplier must ensure that the Supplier's Solution enables the Supplier to meet the Services Requirements, as the Services Requirements may evolve during the Term of the Agreement and as they may be supplemented, enhanced, modified or replaced in accordance with the Agreement, but excluding any services, responsibilities or functions that are specifically identified in the Agreement as the Department's responsibility or a third party's responsibility. The Services Requirements include:

- 6.1.3 the services, functions, requirements, and responsibilities specified in the Agreement;
 - 6.1.4 any services, functions, requirements, and responsibilities agreed as New Services in accordance with Schedule 8 (**Change Control**); and
 - 6.1.5 any services, functions, and responsibilities (including any incidental services, functions or responsibilities) reasonably and necessarily required for, or related to, the proper performance and provision of the services, functions and responsibilities set out in this clause 6.1.
- 6.2** The Supplier must fulfil the Services Requirements on and from the Effective Date in accordance with the Agreement, the Transition Plan detailed in Schedule 4 (**Transition Management**) and any other agreed implementation plans for any New Services. The successful completion of the Transition Plan must be determined in accordance with the provisions of Schedule 4 (**Transition Management**).
- 6.3** Without limiting clause 12.1, the Agreement does not give, or purport to give, the Supplier any rights of exclusivity in relation to the Services Requirements, New Services or services or requirements that are similar to the Services Requirements. The Department, at any time, may perform, or retain third parties to perform any Business Requirement or an element of a Business Requirement which forms part of the Services Requirements. Notwithstanding the foregoing, the Department acknowledges that removal of a Business Requirement from the scope of the Agreement in accordance with clause 13.2 will be treated as a partial Termination for Convenience. Where this occurs, the Supplier must continue to deliver all other Services that are not the subject of the partial Termination for Convenience to the standards specified in the Agreement.
- 6.4** The Supplier's Solution is set out in Schedule 2 (**Business Requirements and Supplier's Solution**). The Supplier must perform its obligations and responsibilities as described in the Supplier's Solution so that the Supplier's Solution fulfils the Services Requirements. In the event of a conflict between the Supplier's Solution and the Services Requirements, the Services Requirements take priority and prevail over the Supplier's Solution and the Supplier must amend the Supplier's Solution to suit the Services Requirements in accordance with the Change Control Procedure.

6.5 The Supplier must, amongst other things, fulfil the Services Requirements in accordance with the Transition timetable identified in Schedule 4 (**Transition Management**) and in accordance with all other requirements of the Agreement.

6.6 If, after a relevant Effective Date, either Party identifies any services, functions, requirements, or responsibilities which were performed within the twelve (12) month period immediately preceding such Effective Date by:

6.6.1 the Department;

6.6.2 an Incumbent Supplier; or

6.6.3 an Exiting Supplier's employees or its contractors who were displaced or transitioned to the Supplier or whose functions were displaced as a result of the Agreement,

and such service, function or responsibility is not specifically described in the Agreement but is required for the delivery or performance of the Services, the Parties must discuss and the Department may agree, as an Agreement Change, the inclusion of such service, function or responsibility as a Services Requirement through the Change Control Procedure.

6.7 Quality Management and Business Continuity

6.7.1 The Supplier must have a Quality Management System (QMS) certified to AS/NZS ISO 9001:2015 "Quality Management Systems - Requirements" or certified to an equivalent standard agreed to by the Department at the Effective Date.

6.7.2 The Supplier must maintain and apply the QMS specified in clause 6.7.1 at all times during the performance of the Services and must notify the Department Representative of any changes to the Certification status of the Supplier. In this clause, "Certification" means certification by an organisation accredited by the Joint Accreditation System for Australia and New Zealand (JAS-ANZ), or equivalent international or national certification body acceptable to the Department.

6.7.3 The Supplier must ensure that all approved subcontractors have quality management systems which are appropriate to the work required under the subcontract. The Supplier must ensure that all work performed under such subcontracts meets the requirements of the QMS to be applied by the Supplier under clause 6.7.1.

6.7.4 The Supplier must maintain records concerning the planning and verification of the quality of the Services for a minimum period of seven (7) years after final acceptance of the quality of the Services.

6.7.5 At any time during the Term, the Department may at its discretion, perform audit and/or monitoring activities in accordance with clause 34 in relation to the Services performed. If at any time the Department Representative determines by audit and/or monitoring or otherwise that, in relation to the production of the Supplies:

(a) the quality system being applied no longer conforms to the Certified QMS; or

(b) the Services produced do not conform to agreed standards,

then the Department Representative may notify the Supplier in writing of the details of the non-conformance and require the Supplier to correct the non-conformance within the period specified in the notice. The Supplier must take whatever action is necessary at no cost to the Department to correct a legitimate quality system/process/product non-conformance within the period specified in the notice issued under this clause 6.7.5 or within any period agreed in writing by the Department Representative and must notify the Department Representative immediately upon taking corrective action. The Department may perform an audit to verify that the non-conformance has been corrected.

- 6.7.6 The Supplier must develop a business continuity plan (**Business Continuity Plan**) by the Effective Date. The Business Continuity Plan must set out the detailed procedures and processes to be followed and actions to be taken if there is a failure or disruption of the Services. The Supplier must ensure that it is able to implement the Business Continuity Plan at any time in accordance with its terms.
- 6.7.7 Where requested by the Department, the Supplier must, within ten (10) Business Days, after the date of the request provide details of the Business Continuity Plan for the provision of the Services.
- 6.7.8 The Supplier must review the Business Continuity Plan on a regular basis (and in any event not less than once in every six (6) month period during the Term). The Department may require the Supplier to conduct additional reviews of the Business Continuity Plan where the Department considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the Business Continuity Plan.
- 6.7.9 The Supplier must undertake regular risk assessments and/or business impact analysis in relation to the provision of the Services not less than once every six (6) months and will provide the results of, and any recommendations in relation to, those risk assessments and business impact analyses to the Department promptly in writing following each review.

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8. TRANSITION SERVICES

8.1 Process of Transition

- 8.1.1 With effect from the Effective Date, the Supplier must comply with its obligations as set out in Schedule 4 (**Transition Management**). All Transition activities, Milestones and deliverables set out in the Agreement must be subject to the acceptance procedures set out in Schedule 4 (**Transition Management**). The Transition Plan must be amended during Transition in accordance with the process described in Schedule 4 (**Transition Management**).
- 8.1.2 The Supplier must be responsible for the overall management of the Transition and must:
- (a) keep the Transition on schedule, within cost and in accordance with the timetable and budget set out in the Transition Plan; and
 - (b) identify and resolve, or assist the Department in the identification and resolution of, any problems encountered in the timely completion of each task identified in the Transition Plan, whether or not the task is the responsibility of the Supplier.
- 8.1.3 From the Effective Date until completion of Transition, the Supplier must provide the Department with weekly progress Reports, commencing on the end of the first week from the Effective Date, that:
- (a) describe, in sufficient detail, the current status of the Transition;
 - (b) indicate the progress of the work being performed;
 - (c) identify any actual or anticipated problems or delays;

- (d) assess the impact of such problems or delays on the Supplier's fulfilment of the Services Requirements; and
- (e) describe all actions being taken or to be taken to remedy such problems or delays.

8.1.4 If the Supplier fails to fulfil any of its obligations with respect to Transition in accordance with the Transition Plan and this clause 8 by the dates specified in the Transition Plan, the Supplier must, at the Department's request and without prejudice to the Department's other rights and remedies in Law and under the Agreement (including under clause 11), arrange (at the Supplier's own cost) all such additional resources as are necessary to fulfil those obligations as early as practicable thereafter without any cost to the Department and without causing further loss or damage to the Department.

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9. SERVICE LEVELS AND SERVICE CREDITS

9.1 The Supplier must, at all times, achieve or exceed the Service Levels and Service Credits in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**). Without prejudice to the first sentence above of this clause 9.1, as a minimum, the Supplier must fulfil the Services Requirements:

- 9.1.1 with promptness, diligence, and in accordance with Good Industry Practice;
- 9.1.2 in a professional manner, and in accordance with the practices and professional standards used by, and consistent with levels of performance achieved by, well-managed operations fulfilling services requirements similar to the Services Requirements;
- 9.1.3 consistent with the Supplier's own standards for such services;
- 9.1.4 using efficiently the Assets, facilities, resources or services necessary to fulfil the Services Requirements;
- 9.1.5 without limiting Schedule 9 (**Human Resource Management**), using adequate numbers of Supplier Personnel that:
 - (a) are appropriately experienced, qualified and trained;
 - (b) are familiar, where appropriate, with the requirements set out in the Agreement; and
 - (c) must fulfil the Services Requirements with all reasonable skill, care and diligence; and

9.1.6 in compliance with clause 29.

9.2 The Parties anticipate that the Supplier's performance of the Services will improve over time and the Parties will co-operate to identify improvements and efficiencies in the fulfilment of the Services Requirements. In addition, at least annually during the Term, the Department and the Supplier must review the Service Levels and Service Credits and must make adjustments to them as appropriate to reflect improved performance capabilities associated with advances in the technology, processes and

methods used to fulfil the Services Requirements, in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**). Any Changes to the Agreement will be made in accordance with the Change Control Procedure.

- 9.3** Without prejudice to clause 9.2 above, the Parties expect and understand that the Service Levels and Service Credits must be subject to continuous improvement requirements in accordance with the provisions of Schedule 6 (**Service Levels and Service Credits**).
- 9.4** The Supplier must adopt and comply with the Department's technology quality and certification procedures as set out in or implemented pursuant to Schedule 3 (**Security**) and/or as notified by the Department from time to time. Any Changes to the Agreement will be made in accordance with the Change Control Procedure.
- 9.5** The Supplier must use the necessary measurement and monitoring tools and procedures required to measure and report the Supplier's performance against the applicable Service Levels and Service Credits. Such measurement and monitoring must permit reporting at a level of detail sufficient to verify the Supplier's compliance with the Service Levels and Service Credits.

10. FAILURE TO PERFORM

- 10.1** Subject to clause 9, if the Supplier commits a Service Level Default, the Supplier must take the steps identified in Schedule 6 (**Service Levels and Service Credits**). Notwithstanding the provisions of the preceding sentence of this clause 10.1, the Supplier must promptly but no later than 24 hours after the occurrence of the event that gave rise to the Service Level Default:
- 10.1.1 use Commercially Reasonable Efforts to preserve any data which may indicate the cause of the Service Level Default;
 - 10.1.2 arrange all such additional resources as are commercially reasonable to perform the Services in accordance with Schedule 6 (**Service Levels and Service Credits**) and Schedule 2 (**Business Requirements and Supplier's Solution**) as early as reasonably practicable thereafter and at no additional charge to the Department;
 - 10.1.3 use Commercially Reasonable Efforts to minimise the impact of the Service Level Default on the Department and any Clients, and to prevent it from recurring; and
 - 10.1.4 correct the Service Level Default and meet the relevant Service Level.
- 10.2** Without prejudice to any other rights and remedies available to the Department whether under the Agreement or at Law, the Supplier must notify the Department immediately upon becoming aware of any actual or anticipated event or other development which may have a material impact upon the Supplier's ability to comply with its obligations under the Agreement. This includes any relevant material control weaknesses identified by the Supplier's internal or external auditors. The Supplier must implement the recommendations in any such audit reviews as soon as practicable at its own cost and expense.

11. SERVICE LEVEL DEFAULT ACTIONS

11.1 If the Supplier fails to meet the required Service Levels in accordance with Schedule 6 (**Service Levels and Service Credits**), the Supplier must detail each failure to meet a Service Level (**Service Level Default**) in the Monthly Service Report.

11.2 To the extent that the Supplier is responsible for any failure to meet the required Service Level, the Supplier must, on the Department's written request but, subject to clause 10, comply with the Service Level Default Actions as determined and directed by the Department in accordance with Schedule 6 (**Service Level and Service Credits**).

11.3 The Supplier acknowledges and agrees that:

11.3.1 application of the Service Level Default Actions to the Supplier under the Agreement is without prejudice to any entitlement that the Department may have to damages at Law from the Supplier resulting from, or otherwise arising in respect of, the Supplier's failure to achieve a Service Level; any breach of the Agreement; or to any right of the Department to Terminate the Agreement pursuant to clause 42 below.

11.3.2 the Department will not apply Service Level Default Action on the Supplier for the Supplier's failure to achieve a Service Level to the extent that failure arose as a result of:

- (a) the Department's failure to fulfill its obligations under the Agreement;
- (b) any action taken by the Supplier at the authorized request of the Department; or
- (c) an event arising as a result of Force Majeure.

11.4 Service Credits

11.4.1 Following the expiry of any relevant Grace Periods that apply to the applicable Service Levels as set out in Schedule 6 (**Service Levels & Service Credits**), if the Supplier fails to meet the required Service Levels in accordance with Schedule 6 (**Service Levels & Service Credits**), the Supplier will detail any applicable Service Credits in each Monthly Service Report.

11.4.2 The Supplier acknowledges and agrees that the Service Credits are:

- (a) a price adjustment to take into account Services Requirements that are not properly delivered to the Department and are not an estimate of the Loss that may be suffered by the Department as a result of the Supplier's failure to meet any Service Level: and
- (b) are not a penalty.

11.4.3 Payment of any Service Credit by the Supplier under the Agreement is without prejudice to any:

- (a) entitlement that the Department may have to damages at Law from the Supplier resulting from, or otherwise arising in respect of, any such breach of the Agreement; or

- (b) to any right of the Department to terminate the Agreement pursuant to clause 42 below.

Any such damages at Law that the Department may be awarded must be reduced by an amount equal to any Service Credits which have already been deducted by the Department from the Services Charges in respect of such breach.

11.4.4 Subject to clause 11.4.5, the Department may notify the Supplier in writing that the Supplier must:

- (a) deduct one or more amounts totalling those Service Credits from the next tax invoice and any subsequent tax invoices as required; or
- (b) at the end of the Term pay any Service Credits to the Department by the date specified in the notice.

11.4.5 The Department may, at its absolute discretion and without limiting its other rights under the Agreement, at Law and otherwise, elect to receive improved Services to the value of any Service Credits detailed in Monthly Service Reports if the Supplier is able to and agrees to provide the improved Services.

11.4.6 Until and unless the Department at its absolute discretion, provides a written notification under clause 11.4.4 the applicable Service Credit is not a debt owing by the Supplier to the Department.

12. VOLUME OF SERVICES

12.1 Notwithstanding any volumes of usage that may be set out in Schedule 5 (**Pricing**), the Department does not guarantee to the Supplier any volume of usage of the Services Requirements by Clients during the Term.

13. CHANGES TO THE SERVICES

13.1 Changes to the Services and New Services

Unless otherwise set out in the Agreement, the introduction of New Services and/or changes to the Services Requirements which impact the Service Charges ^{s47C} must be agreed and implemented in accordance with clause 13.2 below and the Change Control Procedure in accordance with Schedule 8 (**Change Control**).

13.2 Removal of Business Requirements

13.2.1 By written notice to the Supplier from time to time, the Department may remove any Business Requirement (or part thereof) from the scope of the Services Requirements, in which case:

- (a) the removal of the relevant Business Requirement must be deemed to be a partial Termination for Convenience and the provisions of clause 42.2 will apply;
- (b) the Supplier will no longer be under an obligation to fulfil the Services Requirements for such Business Requirement (or part thereof) that has been removed from the date specified in the notice, although where this occurs, the Supplier must continue to deliver all other Services that

are not the subject of the partial Termination for Convenience to the standards specified in the Agreement; and

- (c) the Supplier must provide Exit Assistance in relation to the Business Requirement (or part thereof) being removed, as requested by the Department, in accordance with Schedule 4 (**Transition Management**).

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14. SERVICE CHARGES  **AND TAXES**

- 14.1** Subject to this clause 14, Acceptance of any Services, the Services meeting the Service Levels and the Supplier fulfilling the Services Requirements:

14.1.1 the Department must pay to the Supplier the Service Charges; and

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in accordance with Schedule 5 (**Pricing**). The Supplier acknowledges that, subject to the remainder of this clause 14, no charges, disbursements or compensation payments will be paid by the Department to the Supplier under the Agreement, unless agreed pursuant to Schedule 8 (**Change Control**).

14.2 The Parties acknowledge and agree that:

14.2.1 the Service Charges ^{s47C} fully compensate the Supplier for performing all the Services; and

14.2.2 the Supplier is not entitled to charge:

(a) the Department any amount in addition to the Service Charges ^{s47C}

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(including any amounts associated with any changes in the way the Services are performed) unless:

(c) the Service Charges ^{s47C} have been varied in accordance with Schedule 5 (**Pricing**) and Schedule 8 (**Change Control**); or

(d) otherwise agreed by the parties.

14.3 The Supplier is not entitled to:

14.3.1 be paid Service Charges ^{s47C} more than once for any Services provided;

14.3.2 invoice any Service Charge for a Service for which it has charged ^{s47C}

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14.4 The Parties must use Commercially Reasonable Efforts to resolve any dispute regarding the Service Charges ^{s47C} within ten (10) Business Days after it being brought to the attention of the other Party. If the Parties fail to so resolve the dispute, such dispute must be determined in accordance with the Dispute Resolution Procedure in Schedule 7 (**Governance**).

14.5 Any legislative requirement to account for the Services in a different currency instead of and/or in addition to Local Currency, must be implemented by the Supplier at nil charge to the Department.

14.6 All expenses that the Supplier incurs in fulfilling the Services Requirements (including travel and lodging, document reproduction, shipping, and telephone expenses) are included in the Service Charges ^{s47C} as set out in the Agreement. Accordingly, expenses are not separately reimbursable by the Department or the Client except where otherwise agreed in writing between the Parties.

14.7 The Supplier will be liable for any applicable Local Sales Tax and other applicable taxes and duties at the prevailing rates payable by the Supplier on any goods and services used or consumed by the Supplier in its fulfilment of the Services

Requirements where the tax is imposed on the Supplier's acquisition or use of such goods or services in its fulfilment of the Services Requirements.

14.8 Taxes, Duties and Government Charges

14.8.1 The Supplier must be responsible for:

- (a) any taxes on its property or assets;
- (b) any taxes on its business; and
- (c) any taxes based on its net income or gross receipts.

14.8.2 The Supplier must be liable for GST, stamp duty and other indirect taxes that arise in respect of the Agreement or the Services.

14.8.3 Except as provided by this clause 14.8, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of the Agreement will be borne by the Supplier.

14.8.4 Unless otherwise indicated, the amounts paid by the Department (if any) as determined in accordance with the Agreement includes Goods and Services Tax (GST) for supplies made under the Agreement which are "taxable supplies" within the meaning of *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

14.8.5 In relation to taxable supplies (if any) made under the Agreement, the Supplier will issue the Department with a tax invoice in accordance with the GST Act.

14.8.6 If one party (the Supplier) makes a taxable supply to the other party (the recipient) under the Agreement, on receipt of a correctly rendered invoice from the Supplier, the recipient must pay without set-off an additional amount to the Supplier equal to the GST imposed (or local Equivalent) on the supply in question.

14.8.7 No party may claim from the other party under the Agreement any amount for which the first party may claim an input tax credit.

14.9 Value For Money

If:

14.9.1 New Services are requested in accordance with clause 13.1 above; and/or

14.9.2 changes to the Agreement or the Services Requirements or Supplier's Solution are requested by either Party which impact the Service Charges ^{s4}
[REDACTED],

the Supplier must provide the Department with sufficient pricing information in accordance with the Pricing Template set out in Schedule 5 (**Pricing**) so that the Department can ensure that it and the Clients are receiving Value For Money from the Supplier in respect of the Service Charges ^{s47C} [REDACTED] being proposed by the Supplier for such New Services, changes to the Agreement or Services Requirements or Supplier's Solution and/or extension(s) to the Term.

14.10 Cost Element Spreadsheets

It is a condition of the Agreement that, as at the Effective Date, the Cost Element Spreadsheets is, in all material respects, a fair, complete and accurate representation of the basis on which the Supplier has calculated charges, revenues, costs and returns (including capital costs, financing costs and on-going revenue expenditure) in relation to the fulfilment of the Services Requirements and the achievement of the Service Levels as agreed during the Term. Unless expressly provided elsewhere in the Agreement, the Supplier must not be entitled to amend the Service Charges ^{s4} in Annex 5-1 (Service Charges ^{s47C}) to take account of errors or omissions in the Cost Element Spreadsheets or of circumstances which are (or should be) reflected in the Cost Element Spreadsheets. Any changes to Service requirements or service levels has to be through Change Control Procedure only as set out in Schedule 5 (**Pricing**) and Schedule 8 (**Change Control**) or as otherwise agreed by the parties.

15. PROCEDURES MANUAL

- 15.1 The Supplier must prepare and deliver to the Department a Procedures Manual regarding the Supplier's provision of the Services Requirements in accordance with this clause 15 for the Department's approval.
- 15.2 On or before the first Go Live Date, the Supplier must deliver to the Department a draft Procedures Manual for the Services provided under the Agreement. The Department must provide to the Supplier, the Department's comments on the draft within twenty (20) Business Days after the Department's receipt of the draft Procedures Manual. The Supplier must incorporate the Department's reasonable comments and suggestions and must finalise the Procedures Manual no later than one (1) month after first Go Live Date, unless the Parties agree in writing to an alternate date for finalisation.
- 15.3 The Procedures Manual must detail the operations, functions, activities, processes and procedures used and/or followed by the Supplier, Supplier Subcontractors and Supplier Personnel in the provision of the Services Requirements and the performance of the obligations of the Supplier under the Agreement.
- 15.4 The Supplier must, at least once every twelve (12) months during the term of the Agreement, update the Procedures Manual to reflect changes in the operations, functions, activities, plans, inventories, processes and/or procedures. Prior to their implementation, updates of the Procedures Manual must be provided regularly (and at least once every Agreement Year) to the Department for review and comment as described in clause 15.2.
- 15.5 The Procedures Manual (and all versions of it) is a Supplier Work Product. All rights, title and interest (including Intellectual Property Rights) in and to the Procedures Manual (and all versions of it) vest in the Supplier on creation. The Supplier grants to the Department, its contractors, agents and employees a perpetual, irrevocable, fully paid-up, royalty free, non-exclusive, transferable and worldwide license to use, modify, adapt, copy and communicate the Procedures Manual for government activities.

16. SERIOUS DELAY

- 16.1 Schedule 4 (**Transition Management**) sets out the Services Requirements relating to Transition and the Transition Plan. It also identifies the Go Live Dates for the provision of the Supplier's Solution and other associated Transition Milestone Dates for Transition.

16.2 The Supplier recognises that if it fails to meet the relevant Readiness Criteria for Go-Live in accordance with Section 6 and Annexes 4-4 and 4-5 of Schedule 4 (**Transition Management**) such that it is not ready to assume the fulfilment of the Services Requirements (a "**Serious Delay**"), such Serious Delay will have a material adverse impact on the business and operations of the Department (where such Serious Delay is within the control of the Supplier).

16.3 Subject to this clause 16 and clause 44, a Serious Delay will be treated as a failure to comply with Service Requirements. In the event of a Serious Delay, the Department may at its absolute discretion, without limiting the Department's right to recover Losses:

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16.3.2 require the Supplier to charge a reduced s47C Service Charge, calculated at the rate of a 5% reduction for every full week of the Serious Delay, for a period of four (4) months from the Go Live date; and/or

16.3.3 apply a Service Level Default Action to the Supplier.

16.4 If a Serious Delay continues for more than four (4) weeks, the Department may, at its option:

16.4.1 elect to remove the Service from the scope of the Agreement at no penalty or cost to the Department (such removal being deemed to be a partial Termination for Default); and/or

16.4.2 claim damages and/or pursue any other rights and remedies the Department may have under the Agreement or at Law for such Serious Delay.

16.5 The Supplier must detail any Serious Delay and action taken by the Department in each Transition Report

17. RESERVED

18. USE OF THIRD PARTIES AND COOPERATION WITH OTHER SERVICE PROVIDERS

18.1 Services Performed by the Department or Third Parties

18.1.1 Where third parties are retained by the Department to provide a service in substitution for all or an element of a particular Business Requirement that formed part of the Services Requirements as permitted by the Agreement, the Supplier must, to the extent and as agreed in accordance with the Change Control Procedure, integrate such service with the Supplier's Solution.

18.1.2 To the extent that:

- (a) the Department performs, or retains third parties to perform, any service in substitution for all or an element of a particular Business Requirement in circumstances permitted under the Agreement any other services related to the Services Requirements; and
- (b) such services require close or parallel working with the Supplier,

the Supplier must co-operate with the Department and such third parties so far as it is reasonably able to ensure that such services are able to be carried out in a co-ordinated, effective and timely manner. In the case of services that formed part of the Services Requirements, such Supplier co-operation must include, as necessary to enable such services to be performed, access to the Supplier Facilities, Assets, and other facilities reasonably necessary to enable such services to be performed subject always, to such third parties complying with the Supplier's reasonable security and confidentiality requirements.

18.2 Cooperation with Other Service Providers

18.2.1 The Supplier must co-operate (without any change to the Service Charges ^{s4} [REDACTED], unless agreed to in writing with the Department) to the extent that it is able to do so without impacting its ability to fulfil the Services Requirements with all relevant parties, including but not limited to the Department or third parties under contract to the Department to facilitate co-ordination of other services that impact upon or interact with the Services Requirements, including by providing access to the Supplier Facilities, Assets and other facilities reasonably necessary to enable such services to be performed subject always, to such third parties complying with the Supplier's reasonable security and confidentiality requirements.

19. CONSENTS, LICENCES AND PERMITS

19.1 The Supplier agrees to obtain and maintain throughout the Term, at its own cost, all consents, licences, permits and satisfy any other regulatory requirements which are necessary for the Supplier to fulfil the Services Requirements.

19.2 The Supplier agrees that the pricing in Schedule 5 (**Pricing**) covers all consents, licences and permits required to fulfil the Services Requirements and to provide the Supplier's Solution in Schedule 2 (**Business Requirements and Supplier's Solution**).

20. RESERVED

21. THIRD PARTY AGREEMENTS

The Supplier must obtain all Required Consents to complete the Transition and to fulfil the Services Requirements. The Supplier must pay any fees (e.g. transfer or upgrade fees) that may be required to obtain a Required Consent for any of the Third Party Agreements required by the Supplier to fulfil the Services Requirements. Subject to the Department's approval, if a Required Consent cannot be obtained, the Supplier may adopt any alternative approaches or workarounds that are necessary and sufficient to fulfil the Services Requirements without the relevant Required Consent.

22. PERSONNEL ISSUES

The Supplier must comply with the requirements set out in Schedule 3 (**Security**) and Schedule 9 (**Human Resource Management**), including those provisions relating to the appointment and removal of Supplier Personnel.

23. RESERVED**24. PERSONNEL ACCESS**

The Supplier must provide the Department with access to Supplier Personnel for the purposes of, and in accordance with, Schedule 12 (**Audit Access**) or such access as expressly identified elsewhere in the Agreement.

25. DIVERSITY / NO DISCRIMINATION / RESPECT FOR RELIGIOUS AND CULTURAL SENSITIVITIES

The Supplier must ensure that the Supplier Personnel act in accordance with the Australian Public Service Code of Conduct, in respect of the equality and diversity obligations, and in accordance with applicable Law in the place where the Services are being delivered. In relation to Enquiries, the Supplier must comply with the requirements in Schedule 2 (**Business Requirements and Supplier's Solution**) that relate to the Supplier providing the Supplier's Solution in a way that respects the religious and cultural sensitivities of Clients.

26. RESPONSIBILITY FOR SUBCONTRACTORS AND SUPPLIER AFFILIATES

26.1 The Supplier must provide a list to the Department by the Effective Date of the Supplier Subcontractors it is proposing to use or using to provide the Services under the Agreement. This list of Supplier Subcontractors is a deliverable of the Supplier under Schedule 9 (**Human Resource Management**). This list also identifies the Supplier Subcontractors that are Material Subcontractors at the Effective Date.

26.2 Except for Subcontractors that have already been approved by the Department, the Department will review the list of subcontractors provided in accordance with clause 26.1 and the Supplier must only use subcontractors that have been approved by the Department (such approval shall not be unreasonably withheld by the Department).

26.3 The Supplier remains liable for all acts or omissions of the Supplier Subcontractors (including Material Subcontractors) in accordance with the provisions of Schedule 9 (**Human Resource Management**).

26.4 The Supplier must comply with any obligations in respect of Supplier Subcontracts as are more particularly described in Schedule 9 (**Human Resource Management**).

27. CONFIDENTIALITY**27.1 Confidential Information**

27.1.1 Subject to clauses 27.1.5 and 27.2, a Party must not, without the prior written consent of the other Party, use or disclose any Confidential Information of the other Party. The Parties' Confidential Information is as set out in Schedule 16 (**Confidential Information**). The Supplier (including all Subcontractors) must protect and keep confidential all Client Data in its possession.

27.1.2 In giving written consent to use or disclose the Department's Confidential Information and Client Data, the Department may impose such conditions as it thinks fit.

27.1.3 The Department may at any time request the Supplier to obtain a written undertaking, relating to the use and non-disclosure of the Department's Confidential Information and Client Data from:

- (a) Supplier Personnel and Supplier Subcontractors; and/or
- (b) any person with a Third Party Interest,

This written undertaking will be substantially in the form of the Deed of Undertaking in relation to Personal Information and Confidential Information set out at Schedule 17 (**Confidentiality Undertaking**).

27.1.4 If the Supplier receives a request under clause 27.1.3, it must promptly arrange for all such undertakings to be given.

27.1.5 The obligations on the Parties under this clause 27.1 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a Party in order to comply with obligations, or exercise rights, under the Agreement;
- (b) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of Agreement related activities;
- (c) is disclosed to any Commonwealth Minister, or the Minister's advisers;
- (d) without limiting the application of this clause 27.1.5, is disclosed:
 - (i) in order to comply with the requirements of any regulatory body;
 - (ii) in order to respond to a request that is made by a Royal Commission, a body undertaking an administrative or statutory review, or an audit or inquiry (whether within or external to the Department), including a review, audit or inquiry that is conducted by the Commonwealth Auditor-General or the Office of the Australian Information Commissioner or the Privacy Commissioner; or
 - (iii) in order to respond to a request or direction of a House, or a request by a Committee, of the Parliament of the Commonwealth of Australia;
- (e) is authorised or required by Law to be disclosed;
- (f) is shared by the Department within the Department's internal organisation, or with another Agency of the Commonwealth of Australia, where this serves the legitimate interests of the Commonwealth of Australia; and
- (g) is in the public domain otherwise than due to a breach of this clause 27.1.

27.1.6 Where a person discloses Confidential Information to another person pursuant to this clause 27.1 the disclosing person must notify the receiving person that the information is confidential and obtain suitable confidentiality undertaking (wherever feasible and practical) on terms as those contained in this agreement.

27.1.7 The Supplier agrees to provide all reasonable assistance to the Department with regard to the release of the Supplier's Confidential Information where

disclosure may be required for the purposes of the Department's Parliamentary reporting and accountability obligations.

27.1.8 The obligations under this clause 27.1 continue in relation to the information described in this clause 27.1, commencing on the Effective Date and the Parties agree that these obligations survive for the relevant period of confidentiality set out in Schedule 16 (**Confidential Information**) notwithstanding the Termination of the Agreement.

27.2 Reporting Obligations and Disclosures

27.2.1 The Supplier will allow the disclosure of information related to the Agreement for various reporting and Commonwealth disclosure obligations. These disclosures include:

- (a) disclosure of procurement information for the Department's annual reporting purposes;
- (b) disclosure to the Parliament and its committees, as appropriate, in line with the Government Guidelines for Official Witnesses before Parliamentary Committees and Related Matters;
- (c) disclosure of information consistent with the *Freedom of Information Act 1982* (Cth);
- (d) disclosure of discoverable information that is relevant to a case before a court; and
- (e) disclosure of information as required under other legislation or Commonwealth policy.

27.2.2 Clause 27 survives the Termination or expiration of the Agreement.

27.3 Nothing in the Agreement must prevent the Department from using techniques, ideas and know-how gained during the Term in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information of the Supplier or an infringement by the Department of any Intellectual Property Rights of the Supplier.

28. INTELLECTUAL PROPERTY RIGHTS

28.1 Intellectual Property Rights Existing at the Effective Date

28.1.1 Except as specified in this clause 28, nothing in the Agreement will be deemed to assign or otherwise transfer to any Party any Intellectual Property Rights of the other Party existing at the Effective Date ("**Pre-Existing IPR**").

28.1.2 Neither Party must contest the ownership of any such Pre-Existing IPR belonging to the other Party prior to the Effective Date.

28.2 The Department Material and the Department Data

28.2.1 The Department will retain all right, title and interest in and to all Department Material and the Department Data, including all Intellectual Property Rights therein.

28.2.2 The Department hereby grants to the Supplier, the Supplier Subcontractors and Supplier Personnel a fully paid-up, non-exclusive, non-transferable, worldwide licence during the Term of the Agreement and Exit Period to use, operate, copy, reproduce, modify, adapt, maintain and enhance the Department Material and also encompasses the further versions of Department Software and Department Material as they are developed, only to the extent necessary and for the sole purpose of fulfilling the Services Requirements and/or performing its other obligations under the Agreement, with the right to grant non-transferable sub-licences thereunder to Supplier Subcontractors only for such purpose but does not include the right to commercialise. Where any Department material or Department Software is embedded in a Supplier Work Product the licence granted will be perpetual.

28.2.3 The Supplier and Supplier Subcontractors must cease any and all use of Department Material upon Termination of the Agreement or the date upon which the Supplier and Supplier Subcontractors ceases to require such Department Material for the purposes of the provision of Exit Assistance, whichever is the later.

28.2.4 The Supplier must ensure that any Supplier Subcontractors and Supplier Personnel comply with clause 28.

28.3 Supplier Software and Supplier Material

28.3.1 The Supplier hereby grants to the Department, its contractors, agents and employees a worldwide, fully paid-up, non-exclusive licence to use, operate and copy the Supplier Software and Supplier Material for the purpose only of the receipt by the Department of the benefit of the Services Requirements during the Term of the Agreement and any Exit Period. The licence granted under this clause 28.3.1 must take effect on the date that the relevant Supplier Software or Supplier Material is first used by or on behalf of the Supplier to fulfil the Services Requirements and also encompasses the further versions of the Supplier Software and Supplier Material as they are developed. The licence granted in this clause 28.3.2 does not include the right for the Department to commercialise the Supplier Software and Supplier Material. Where any Supplier Material or Supplier Software is embedded in a Department Work Product the licence granted will be perpetual.

28.3.2 In the event of:

- (a) a Termination for Default; or
- (b) the Department exercising its step-in rights under clause 46;

but excluding the expiry of the Agreement, the Supplier hereby grants to the Department, any Successor Supplier, and their respective contractors, agents and employees, a non-exclusive licence to use, operate, maintain and support the Supplier Software and Supplier Material for the purpose only of:

- (a) the provision of the Services subject to any step-in under clause 47;
- (b) the receipt by the Department of services similar to those fulfilled by the Supplier prior to the Termination Date; and/or

- (c) the Successor Supplier and its contractors, agents and employees providing services to similar to those provided by the Supplier prior to the Termination Date.

28.3.3 Such licence will:

- (a) commence on the Termination Date and will expire on the date twelve (12) months after the notice to Terminate or the notice of step-in is given; and
- (b) at no cost to the Department.

28.3.4 Supplier Software and Supplier Material will be listed in the inventory to be provided under clause 28.9.

28.4 Third Party Software and Third Party Material Provided by the Supplier

28.4.1 The Supplier must provide such Third Party Software and Third Party Material as is necessary or appropriate to fulfil the Services Requirements. Before installing any new Third Party Software or Third Party Material (as applicable) after the Effective Date, the Supplier must use Commercially Reasonable Efforts to obtain or provide (as applicable) a licence which enables the Department or its subcontractors or their permitted assignees, rights to use the Third Party Software and/or Third Party Material (as applicable), as required, during the Term of the Agreement and Exit Period for the purposes of receiving the benefit of the Services Requirements. The Supplier must be liable for the cost associated with obtaining the third party licences described in this clause 28.4.1. The Supplier must maintain copies of all third party licences obtained by the Supplier in accordance with this clause 28.4.1.

28.4.2 Subject to clauses 28.4.3 and 28.4.4, the Supplier must ensure that licences to use Third Party Software and Third Party Material (including Modifications to any Third Party Software that was already in use as at the Effective Date) must be in the Supplier's or a Supplier Group Company's name, provided that prior to the introduction of such Third Party Software or Third Party Material the Supplier uses Commercially Reasonable Efforts to obtain an obligation on the third party licensor at the Termination of the Agreement either to:

- (a) transfer, assign or novate the licence for such Third Party Software and Third Party Material to the Department or a Successor Supplier without the need for further consent, licence or payment of charges applicable to such transfer, assignment or novation (as applicable); or
- (b) grant to the Department or a Successor Supplier a licence for such Third Party Software and Third Party Material on terms substantially similar to the terms of the Supplier's existing licence for such Third Party Software and Third Party Material,

(each, a "**Licence Transfer Right**").

28.4.3 If the third party licensor refuses to grant a Licence Transfer Right; or requires an increased fee or premium for the granting of a Licence Transfer Right; or requires that the on-going fee following the exercise of the Licence Transfer Right for the Third Party Software or Third Party Material will be higher than

the fees payable by the Supplier prior to the Termination; then the Supplier must notify the Department and the Department will, at its option, either:

- (a) require the Supplier to agree to such a Licence Transfer Right, in which case the Department may pay the fee levied by the licensor, (and the Supplier must use its Commercially Reasonable Efforts to reduce such fee) and the on-going fees for such Third Party Software and Third Party Material must also be payable by the Department or a Successor Supplier (as applicable);
- (b) agree with the Supplier a commercially reasonable workaround, which may include the Supplier using alternative Software; or
- (c) waive the obligation to obtain a Licence Transfer Right.

28.4.4 clause 28.4.2 does not apply to Commercially Available Off The Shelf Software provided by the Supplier under the Agreement.

28.5 Work Product

28.5.1 The Department will own all rights, title and interest (including all Intellectual Property Rights) in and to all the Department Work Products created during the Term. The Department Work Products will become Department Material on creation.

28.5.2 The Department grants to the Supplier a licence to all Department Work Products in accordance with clause 28.3.

28.5.3 The Supplier will own all rights, title and interest (including Intellectual Property Rights) in and to all Supplier Work Products created during the Term, which will include any Work Products Modified by the Supplier from existing Supplier Software or Supplier Material. Supplier Work Products will be deemed to be Supplier Software or Supplier Material (as appropriate) and, unless otherwise agreed, the terms of clause 28.3 will apply to such Supplier Work Product.

28.5.4 If the Supplier proposes to Modify Third Party Software and / or Third Party Material in performing any Services under the Agreement, the Supplier must provide the Department with a written notice detailing the extent of such Modification, including details of the Intellectual Property Rights that would arise in such Modification (and, where appropriate, provide copies of any relevant third party licenses and other relevant information). The Department may, accept or reject the Supplier's proposal to Modify Third Party Software and/or Third Party Material. If the Department rejects the Supplier's proposal to Modify Third Party Software and/or Third Party Material, the Supplier must provide the Department with an alternative proposal for performance of the relevant Services that meets the Department's requirements.

28.6 Non-Infringement, Conformation to Specification and Conformation of Ownership

28.6.1 The Supplier must ensure that the Supplier Software, Supplier Material, Work Product, or any other product provided by the Supplier or any Supplier Subcontractor, and its use in accordance with the Agreement by the

Department and any Successor Suppliers, must not infringe any Intellectual Property Rights or moral right of any third party.

28.6.2 Subject to clause 28.6.1 above, the Supplier confirms (and must procure that the Supplier Subcontractors confirm) that:

- (a) it owns or has the right to use or otherwise exploit, and must, at all relevant times, own or have the right to use or otherwise exploit, the Assets, Supplier Material and Supplier Software to the extent necessary to provide the Services;
- (b) it must not infringe any third party's Intellectual Property Rights in fulfilling the Services Requirements; and
- (c) it has, and must at all relevant times have, full right to grant the licences and provide the Services and any Assets, Work Product and/or Software to the Department as set out in the Agreement.

28.7 Moral Rights Warranty

28.7.1 The Supplier warrants or undertakes that it has or will obtain from each author of all copyright works comprised in the deliverables an enforceable, irrevocable, perpetual and unconditional written consent in favour of the Supplier and the Department, to do, or allow the doing of, any act or omission (which does not include the falsely attributing the work) which, but for the consent, may infringe any "moral right" within the meaning of the *Copyright Act 1968* (Cth).

28.7.2 The consent referred to in clause 28.7 must be provided to the Department as and when required.

28.8 Reserved

28.9 Cataloguing

28.9.1 Within twenty (20) Business Days after the Effective Date, the Supplier must develop and maintain a continuously updated inventory of all Supplier Software, Supplier Material, Department Software, Department Material, Third Party Software, Third Party Material and all Work Products, including details which are to be agreed by the Parties during Transition In, which are used as part of, or in the fulfilment of, the Services Requirements hereunder from time to time. The Supplier must provide a copy of this inventory within seven (7) Business Days after a request from the Department or other period agreed by the Parties.

29. REGULATORY AND LEGAL COMPLIANCE

29.1 Without prejudice to clauses 29.3 and 29.4 below, the Supplier must fulfil the Services Requirements consistent with all Applicable Laws and regulatory requirements in any Country from which the Services Requirements are provided and the Supplier must make any necessary changes to the Supplier's Solution to comply with such requirements (without any increase to the Service Charges ^{s47C}). Regulatory requirements include (among others) data protection legislation, import and export restrictions and requirements imposed by regulatory authorities provided that each of which have effect within the relevant Country or affect trade or dealings

between the Commonwealth and the relevant Country. The Supplier must ensure that any such change must be implemented by the Supplier so as not to have an adverse effect on, or give rise to increased inconvenience in, the fulfilment of the Services Requirements.

- 29.2** Without limiting clauses 29.1 or 29.3 the Supplier must comply with Schedule 13 (**Applicable Requirements**).
- 29.3** The Parties acknowledge that any costs relating to compliance with any changes in Law after the Effective Date must, subject to this clause 29.3, be at the Supplier's cost. Where there has been a Discriminatory Change in Law after the Effective Date, the Supplier may submit a request to the Department for the Service Charges ^{s4} [REDACTED] to be changed (as applicable). The Supplier must provide evidence to justify this request and follow the Change Control Procedures set out in Schedule 8 (**Change Control**).
- 29.4** If the Supplier's obligation to fulfil a Services Requirement in a particular Country necessarily and unavoidably would result in a breach of Law of such Country, the Supplier must promptly notify the Department of this fact in writing and the Supplier will be relieved of its obligation to comply with such Services Requirement in such Country. The Parties will agree, through the Change Control Procedure, a Change to the relevant Services Requirement for such Country to ensure that the fulfilment of such Services Requirement will not breach the relevant Law. For the avoidance of doubt, this clause 29.4 must not apply if the breach in Law can be prevented by a change to the Supplier's Solution which still meets the relevant Services Requirement, provided that the Department and the Supplier agree to an increase or decrease in the Service Charges ^{s47C} [REDACTED], occasioned by such change to the Supplier's Solution.

30. PROTECTION OF PERSONAL INFORMATION

- 30.1** This clause applies only where the Supplier deals with Personal Information when, and for the purpose of, providing Services under the Agreement.
- 30.2** The Department retains responsibility for preparing its business requirements for the collection of Personal Information and Client Data and against which the Supplier will deliver the Services. The Supplier agrees to deal with and handle all Personal Information complying with relevant provisions of the *Privacy Act 1988* (Cth) (**Privacy Act**) (as amended from time to time) as applicable to the Supplier.
- 30.3** In particular, the Supplier undertakes to:
- 30.3.1 use, handle and deal with all personal information only for the purposes for which it is collected or otherwise comes into its possession under the Agreement;
 - 30.3.2 protect all personal information in its possession and will not disclose it without the consent in writing of the Department, or unless required by Law;
 - 30.3.3 not to do any act or engage in any practice that would breach the Privacy Act including any Australian Privacy Principles (**APPs**), which if done or engaged in by an Agency of the Commonwealth, would be a breach of the Privacy Act or APPs; and

30.3.4 to ensure that any employee of the Supplier who is required to deal with Personal Information for the purposes of the Agreement is made aware of the obligations of the Supplier set out in this clause 30.

30.4 The Supplier must promptly notify the Department Representative if the Supplier:

30.4.1 becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 30, whether by the Supplier or any Supplier Subcontractor;

30.4.2 becomes aware that a disclosure of Personal Information may be required by Law; or

30.4.3 receives a request or inquiry from the Privacy Commissioner or Information Commissioner, or by any individual to whom any Personal Information held by the Supplier or Supplier Subcontractors relates, in respect of Personal Information.

30.5 The Supplier agrees to ensure that any Supplier Subcontract entered into for the purpose of fulfilling its obligations under the Agreement contains provisions to ensure that the Supplier Subcontractor has the same awareness and obligations as the Supplier has under this clause 30, including the requirement in relation to Supplier Subcontracts.

30.6 The Supplier agrees to indemnify the Department in respect of any Loss suffered or incurred by the Department which arises directly or indirectly from a breach of any of the obligations of the Supplier under this clause 30, or a Supplier Subcontractor under clause 30.5.

30.7 The provisions of this clause 30 survive Termination of the Agreement.

31. PERFORMANCE GUARANTEE

31.1 The Supplier must, on the Effective Date, provide to the Department a performance guarantee for the performance of its obligations under the Agreement in the form set out in Schedule 14 (**Performance Guarantee**).

Note to Tenderers: The Department may, either as an alternative or in addition to the Performance Guarantee, require provision of an Unconditional Financial Undertaking. This will be determined based upon a risk assessment.

32. DATA PROTECTION AND LOSS

32.1.1 The Supplier must ensure that the Department can recover all the Department Data and Client Data held by the Supplier in accordance with clause 32.1.2 below.

32.1.2 The Supplier and the Department must each take all reasonable precautions (having regard to the nature of their other respective obligations under the Agreement) to protect and preserve the integrity of the Department Data and Client Data and to prevent any misuse, destruction, corruption or loss of the Department Data and Client Data.

32.1.3 The Supplier must not, without the prior written agreement of the Department, insert or allow the insertion into any Software of any code which would have

the effect of disabling or otherwise shutting down all or any portion of the Supplier's Solution, including during any period of Exit Assistance. For the avoidance of doubt, this clause 32.1.3 is not intended nor should be interpreted in any manner as being to prevent normal operation and maintenance activities, including prudent responses to emergency situations.

32.2 The Supplier must not delete or remove any copyright notices contained within or relating to the Department Data.

32.3 As part of the Services, the Supplier must:

32.3.1 comply with all applicable Laws (see Schedule 13 (**Applicable Requirements**));

32.3.2 advise the Department immediately upon becoming aware of the corruption or loss of the Department Data and/or Client Data held or controlled by the Supplier;

32.3.3 use Commercially Reasonable Efforts to ensure that, in the event of any corruption or loss of the Department Data and/or Client Data held or controlled by the Supplier howsoever caused, the Supplier is in a position to restore or procure the restoration of such the Department Data and/or Client Data; and

32.3.4 at the request of the Department in the event of any corruption or loss of the Department Data and/or Client Data and without prejudice to any other remedies that may be available to it either under the Agreement or otherwise, use Commercially Reasonable Efforts to restore or procure the restoration of the Department Data and/or Client Data to its state immediately prior to the said corruption or loss, or, at the direction of the Department, the data should be restored to another state, that is technically possible, as the Department sees fit to specify. The Supplier must be entitled to reasonable costs unless the corruption or loss of data was due to the Supplier's Default.

33. VALUE FOR MONEY

To ensure that the Service Charges ^{s47C} represent value for money to the Department ^{s47C} during the Term, the Parties have agreed and must comply with the pricing rates specified in Annex 5-1 and Annex 5-4 set out in Section 4.4 of Schedule 5 (**Pricing**) and continuous improvement provision in Section 2.3 of Schedule 6 (**Service Levels and Service Credits**).

34. AUDIT RIGHTS AND ACCESS

34.1 Without limiting clause 24, the Supplier will allow:

34.1.1 the Department or its nominee;

34.1.2 the Auditor-General or his or her nominee;

34.1.3 the Privacy Commissioner, the Information Commissioner and the FOI Commissioner or their nominees;

34.1.4 the Ombudsman or his or her nominee; and

34.1.5 any other persons, not being a Direct Competitor to the Supplier, authorised by the Department representative,

(the '**Auditors**') to access the Supplier's premises at all reasonable times and to inspect and copy all relevant documentation and records (subject to clause 34.3), however stored, in the Supplier's possession or control, for any review of the Supplier's performance of the Agreement.

Note to Tenderers: Please provide guidance in relation to who you would consider would be a Direct Competitor for the purposes of this audit clause (See Tender Response Form 9).

34.2 The rights referred to in clause 34.1 are subject to:

34.2.1 the provision of reasonable prior notice to the Supplier (excluding the case where the Department suspects that there has been a breach of Law);

34.2.2 compliance with the Supplier's reasonable security procedures;

34.2.3 each Party bearing its own cost arising out of or in connection with any access or inspection; and

34.2.4 if appropriate, execution of a deed of confidentiality relating to non-disclosure of the Supplier's Confidential Information.

34.3 Where an Auditor seeks access under clause 34.1 to documentation and records that include third party confidential information, the Supplier must:

34.3.1 advise the Auditor that such documentation and records contains third party confidential information;

34.3.2 advise the Auditor of the nature of the third party confidential information so that the Auditor can determine whether the information is relevant to the Agreement; and

34.3.3 if the information is relevant to the Agreement and the Auditor so requests, request the relevant third party to consent to the Auditor having access to such documentation and records.

If the relevant third party consents to the Supplier disclosing documentation and records that contains their confidential information, the Department will request the Auditor to execute a non-disclosure undertaking in respect of such documentation and records.

34.4 The Supplier must ensure that any Supplier Subcontract entered into on and from the Effective Date contains an equivalent clause granting the rights specified in this clause 34.

34.5 Clauses 34.1 and 34.2 apply for the term of the Agreement and for a period of seven (7) years after the date of Termination of the Agreement.

34.6 The Parties must further comply with the provisions of Schedule 12 (**Audit Access**).

35. DISPUTE RESOLUTION PROCEDURE

The Parties must comply with the dispute resolution provisions of Schedule 7 (**Governance**).

36. SECURITY REQUIREMENTS

36.1 General Security Obligations

- 36.1.1 The Supplier must take all measures necessary to comply with the Department's security requirements and policies which are applicable to the Supplier in the performance of the Services, including those set out in Schedule 3 (**Security**).
- 36.1.2 The Supplier must take all reasonable measures, by the display of notices or other appropriate means, to ensure that its employees and subcontractors have notice that all provisions referred to in clause 36.1.1 will apply to them and will continue to apply to them, if so applicable, after the Termination of the Agreement.
- 36.1.3 The Supplier agrees that it must provide full details of all of its Supplier Personnel (and all negotiations, terminations and new appointments) to the Department and must permit the Department or its authorised representatives to vet, investigate and interview any of the Supplier Personnel if required. The Supplier further agrees to promptly replace without cost to the Department any of the Supplier Personnel who may not be acceptable to the Department.
- 36.1.4 The Supplier agrees and understands that it and its Supplier Personnel may be or become subject to such other prohibitions, restrictions, conditions or covenants as the Department may impose and which may relate to security issues. The Supplier further understands that the Department may inspect and impose requirements as to the security of the Supplier's premises and its delivery of documents arrangements.

36.2 Security Reports

- 36.2.1 The Supplier must comply with the security requirements as set out in Schedule 3 (**Security**).
- 36.2.2 The Supplier agrees to notify the Department promptly in writing if it becomes aware that a Security Incident has occurred.
- 36.2.3 The Supplier agrees to supply written security Reports to the Department in a form and at the times specified in Schedule 3 (**Security**), including the following information:
- (a) all Security Incidents, including steps taken by the Supplier to address these;
 - (b) perceived security problems;
 - (c) where appropriate, recommendations for security improvements;
 - (d) proposed and actual changes of Supplier Personnel; and
 - (e) any other information which the Department reasonably requires.

36.3 Supply Chain

- 36.3.1 The Department's business is conducted in an ICT environment that is critical to national security operations. To ensure the Integrity of Services (including

Supplier Material, Supplier Software and Supplier Personnel that are provided to the Department or the Supplier utilises for the purposes of the Agreement), the Supplier must:

- (a) provide the Department with visibility of its local and global supply chains as they relate to the Services. This includes reporting each quarter on Subcontractor arrangements, alliances and partnerships with third party suppliers;
- (b) provide to the Department any additional supply chain information in a timely manner at the request of the Department at any time during the Term;
- (c) allow the Department to conduct a due diligence and risk review of suppliers and supply chain elements to acquire information regarding the Services and firmware and ensure security risks are adequately addressed. The Department, in its sole discretion, may require the Supplier to remove suppliers and/or supply chain elements as a result of any due diligence or risk review. Changes during the Term will be undertaken through the process set out under clause 57;
- (d) not deliver Services, store Department Material, the Department Data, Client Data or information about the Department on equipment or Software from specific suppliers when requested by the Department;
- (e) provide the Department on a Monthly basis forward plans associated with infrastructure upgrades and changes, Software patching and version upgrades or changes for Software aspects of the Services, whether shared with the Supplier's other customers or dedicated to the Department;
- (f) protect the Integrity of the Services, Department Material, the Department Data, Client Data and information about the Department from unauthorised interference;
- (g) provide all information to the Department, as requested, to assist in the assessment of national security risk;
- (h) use secure shipping and warehousing for information systems, information system components, and information technology products;
- (i) seek to minimise the time between purchasing decisions and delivery of information systems, information system components, and information technology products; and
- (j) employ independent analysis and penetration testing against delivered information systems, information system components, and information technology products.

37. FACILITIES

- 37.1** The location of the Service Centres where the Supplier will deliver Services are listed in Schedule 10 (**Facilities**).

37.2 If the Supplier wishes to relocate the performance of any part of the Supplier's Solution from the locations identified in Schedule 10 (**Facilities**) at the Effective Date then the Department may authorise (such authorisation not to be unreasonably withheld) the Supplier to do so provided that the Supplier:

37.2.1 provides reasonable notice to the Department;

37.2.2 develops a transition plan reasonably acceptable to the Department that is designed to avoid any disruptions or degradation in the fulfilment of Services Requirements;

37.2.3 demonstrates to the Department's reasonable satisfaction that the Supplier will be able to meet the Service Levels and Service Credits set out in Schedule 6 (**Service Levels and Service Credits**) at the new location and the new location must meet those requirements set out in Annex 10-1 to Schedule 10 (**Facilities**) and the Department's data security, confidentiality and privacy requirements as set out in the Agreement;

37.2.4 complies with any other reasonable requirement of the Department in relation to such relocation; and

37.2.5 must be responsible for the relocation costs in respect of any relocation under this clause 37.1.

37.3 The Supplier must comply with all health and safety measures and reasonable security requirements of the Department, and must procure that all of its employees, agents and Supplier Subcontractors must likewise comply with such requirements.

38. WARRANTIES AND REPRESENTATIONS

38.1 The Supplier warrants and represents that, throughout the Term of the Agreement:

38.1.1 at all times, the Supplier has full capacity and authority and all necessary consents (including, but not limited to, where its procedures so require, the consent of the Supplier Parent Company) to enter into and to perform the Agreement and that the Agreement is executed by a duly authorised representative of the Supplier;

38.1.2 the Supplier has the full capacity and authority to grant the licences referred to in clause 28 above and will secure such authorisation from third parties relative to their products;

38.1.3 the Supplier is not aware as at the Effective Date of anything within its reasonable control which might or will adversely affect its ability to fulfil its obligations under the Agreement;

38.1.4 the Supplier's signing, delivery and performance of the Agreement must not constitute:

(a) a violation or any Law, judgement, order or decree;

(b) a material default under any material contract by which it or any of its assets are bound; or

(c) an event that would, with notice or lapse of time, or both, constitute such a default;

- 38.1.5 the Services will be supplied and rendered with all due skill, care, promptness and diligence by appropriately experienced, qualified and trained personnel and executed in a professional manner;
- 38.1.6 the Supplier will discharge its obligations hereunder with all due skill, care and diligence, including but not limited to Good Industry Practice;
- 38.1.7 Reserved;
- 38.1.8 at the time of entering into the Agreement that it does not have an adverse judicial decision against it (not including decisions under appeal), including in relation to employee entitlements that it has not paid;
- 38.1.9 any equipment, materials or other substances which is used by the Supplier to fulfil the Services Requirements, for the purposes of the Agreement, are not a safety hazard; and
- 38.1.10 all statements and representations made by or on behalf of the Supplier in writing or recorded in written form shared between the Parties during the procurement process between the Supplier and the Department were, to the best of the Supplier's knowledge and belief, true, complete and accurate at the time that they were made or given, and that by the Effective Date the Supplier advised the Department in writing of any material fact, matter or circumstance of which the Supplier has been aware since making such proposals or responses which would render any such statement or representation false or misleading.
- 38.2** Each warranty must be construed as a separate warranty and must not be limited or restricted by reference to or inference, from, the terms of any other warranty or any other terms of the Agreement. Except as expressly stated in the Agreement, all warranties and conditions, whether express or implied by statute, common-law or otherwise (including but not limited to fitness for purpose) are hereby excluded to the extent permitted by Law.
- 38.3** The Department has entered into the Agreement based on the Supplier's warranties in this clause 38 and the representations made by the Supplier in the RFT process.
- 39. INDEMNITY BY SUPPLIER**
- 39.1** The Supplier indemnifies the Department against:
- 39.1.1 Loss or liability incurred;
- 39.1.2 Loss of or damage to property of the Department or any other person;
- 39.1.3 Loss incurred in dealing with any Claim against the Department including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Department; or
- 39.1.4 the personal injury or death of any person,
- arising from
- 39.1.5 any act or omission by the Supplier or Supplier Personnel in connection with the Agreement;

39.1.6 any breach by the Supplier of its obligations or warranties under the Agreement;

39.1.7 the use by those indemnified of Department Material, Supplier Material or Supplier Software provided by it (including in respect of any infringement of Intellectual Property Rights in that Material),

irrespective of whether there was fault on the part of the person whose conduct gave rise to that Loss or liability.

39.2 The Supplier's liability to indemnify the Department under clause 39.1 will be reduced proportionately to the extent that any breach of the Agreement by the Department or any act or omission involving fault on the part of the Department contributed to the relevant Loss or liability.

39.3 Without limiting the operation of clause 39.2, the right of the Department to be indemnified under clause 39.1 is in addition to, and not exclusive of, any other right, power or remedy provided by law.

39.4 In this clause 39, "the Department" includes officers and employees of the Department.

39.5 This clause 39 will survive expiration or termination of the Agreement.

39.6 Anticipation of Infringement

If any item or component used by the Supplier to fulfil the Services becomes, or in either Party's reasonable opinion is likely to become, the subject of an infringement or misappropriation Claim, the Supplier must, in addition to its obligation to indemnify the Department (and in addition to the other rights the Department may have under the Agreement), promptly at the Supplier's expense:

39.6.1 use its Commercially Reasonable Efforts to secure the right to continue using the item on terms which are reasonably acceptable to the Department, such acceptance not to be unreasonably withheld or delayed; or

39.6.2 replace or Modify the item to make it non infringing, provided that any such replacement or Modification does not degrade the performance or quality of the affected component of the Services Requirements.

39.7 Enforcement of Indemnities

It is not necessary for a Party to incur expense or make payment before issuing notification under clause 39.8.

39.8 Indemnification Procedures

39.8.1 Each Party will notify the other in writing as soon as it knows or becomes aware of any event arising in connection with the Agreement which it believes may give rise to a Claim under clause 39.1.

39.8.2 The Supplier must, at its own expense, conduct any litigation and/or any negotiations arising from and has the exclusive right to defend, conduct and settle all Claims or proceedings in connection therewith, provided that the Supplier:

- (a) complies with the Legal Services Directions 2017 when conducting litigation on behalf of the Department;
- (b) consults with the Department in relation to such litigation and/or negotiations arising therefore; and
- (c) does not settle such Claim or demand without the Department's consent unless the settlement incorporates an absolute release of the Department from all liability in connection with such Claim or demand.

39.8.3 The Department will, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Claim or demand made or action brought against the Department to which the above may apply. The Supplier must reimburse the Department for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in so doing.

39.9 The Department's Obligations

39.9.1 The Department agrees that in the performance of the Agreement it will:

- (a) comply with all Laws;
- (b) promptly notify the Supplier if it becomes aware that Supplier Personnel or Clients are at risk;
- (c) ensure that the Supplier is authorised to receive visa applications under the *Migration Act 1958* (Cth); and
- (d) provide assurance (upon request from the Supplier) that the Department has provided the Supplier with the appropriate Intellectual Property licenses required to enable the Supplier to use Department Software and Department Material in accordance with the Agreement.

40. LIABILITY

40.1 Each Party's liability to the other is unlimited for all Losses in respect of, arising out of, or as a consequence of, a Claim relating to:

40.1.1 personal injury (including sickness and death);

40.1.2 loss of, or damage to property;

40.1.3 an infringement of Intellectual Property Rights;

40.1.4 liabilities owed to a third party;

40.1.5 any breach of security, confidentiality or privacy;

40.1.6 any Wilful Misconduct, or grossly negligent act or omission; or

40.1.7 any criminal activity or a breach of any Law.

40.2 **Wilful Misconduct**, for the purposes of this clause 40, means an act or omission that is taken:

40.2.1 intentionally to achieve a wrongful purpose;

40.2.2 without legal or factual justification; and

40.2.3 in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit,

and includes any act or omission that constitutes repudiation of the Agreement.

40.3 For the purposes of this clause 40, a **grossly negligent** act or omission is an act or omission done with reckless disregard of a legal duty, whether consciously or not, for the consequences of the act or omission.

40.4 To the extent permitted by Law, each party's liability to the other is capped in respect of each single occurrence or a series of related occurrences arising from a single cause the aggregate for all Losses, in respect of, or arising out of, or as a consequence of Claims not encompassed within clause 40.1 to an amount equal to \$[insert].

Note to Tenderers: The liability cap will be determined based on an overall risk assessment.

40.5 The parties acknowledge that the indemnities under clause 39 are subject to the liability caps specified in this clause 40 (other than indemnities in respect of the uncapped events specified in clause 40.1).

40.6 The parties acknowledge this clause 40 will not prevent either party from recovering amounts owing under the Agreement for Services delivered in accordance with the Agreement or in respect of any liquidated damages.

40.7 Notwithstanding any other clause in the Agreement, other than clause 40.1, neither party is liable to the other party under the Agreement for:

40.7.1 punitive or exemplary damages of any kind;

40.7.2 loss of goodwill, business profits, revenue or opportunity arising out of, or in connection with, the Agreement; or

40.7.3 consequential or indirect Losses, meaning losses that could not have reasonably been supposed to have been in the contemplation as the probable result of breach of the Agreement by either party, at the time they made the Agreement.

40.8 Reducing Liability

40.8.1 The liability of a party (**Party A**) for Losses incurred by another Party (**Party B**) in respect of, arising out of or in connection with a cause of action will be reduced proportionally to the extent that Party A demonstrates that:

(a) any negligent act or omission of Party B (or of its Personnel); or

(b) any the failure by the other Party (Party B) to comply with its obligations, warranties and responsibilities under the Agreement,

contributed to those Losses provided that Party B's failure to comply is not caused or contributed to by any act or omission of Party A.

40.9 Review of limitation

40.9.1 The parties acknowledge that the limitation of liability (if any) specified in this clause 40 may be subject to review in the event that the Agreement is varied or extended.

40.9.2 For the avoidance of doubt, a party may require a review of the limitation of liability specified in this clause 40 as a condition of its acceptance to a variation request, but only for the purpose of achieving a proportionate adjustment to reflect any alteration to that party's risk exposure arising out of that variation.

41. INSURANCE

41.1 Throughout the Term, the Supplier must take out and maintain, or cause to be taken out and maintained, with reputable insurance companies, policies and levels of insurance as reasonably appropriate to reflect the Supplier's obligations, liabilities, risk profile or risk exposure under the Agreement.

Note to Tenderers: Please provide details of your insurance policies as part of your Tender (See Tender Response Form 7).

41.2 Subject to clause 41.3, the insurance policies effected and maintained in accordance with this clause 41, must include:

41.2.1 professional indemnity insurance which covers the liability of the Supplier at general law arising from a negligent breach of duty owed in a professional capacity. Such insurance must have a retroactive date of no later than the earlier of the commencement of the provision of Services under the Agreement or any earlier preparatory work by the Supplier;

41.2.2 public and products liability insurance which covers the Supplier and Supplier Personnel for their respective liabilities caused by, arising out of, or in connection with the negligent performance of any obligation or the exercise of any right under the Agreement.

41.2.3 employer's liability insurance for such insured amount as required by Law in the relevant Country and if no statutory requirement exists for an amount sufficient to cover any injury or Loss suffered or incurred by any person engaged in work by the Supplier under the Agreement including Supplier Personnel;

41.2.4 property and contents loss or damage insurance covering all Department Facilities, Department Assets and any other property of the Department and the Supplier which is material to the Supplier's ability to perform its obligations under the Agreement (including data), against the risks of loss, damage or destruction caused by all insurable risks (including theft, malicious damage, fire, lightning, storm, flood and tempest) for their full reinstatement or replacement value and business interruption insurance for an indemnity period of not less than 12 months increased cost of working and loss of profit.

41.2.5 fidelity guarantee insurance which covers the Supplier and Supplier Personnel for their respective liabilities caused by, arising out of, or in connection with fraudulent or dishonest acts or omissions committed by employees of the Supplier; and

41.2.6 any other insurance required by Law in the relevant Country.

41.3 This clause 41 does not require the Supplier to effect and maintain insurance in respect of Uninsurable Risks.

41.4 If requested by the Department, the Supplier must provide to the Department a certificate or broker's letter evidencing the existence of current insurance policies effected and maintained in accordance with this clause 41.

41.5 The Supplier must notify the Department of any material reduction in the level of, or cover provided by, the insurance policies effected and maintained in accordance with this clause 41.

41.6 If any of the insurances effected and maintained in accordance with this clause 41 are on a "claims made" basis, the Supplier must continue to maintain such insurance after the end of the Term for such period as is required by Law in the relevant Country to meet a potential claim relating to a matter occurring during the Term.

41.7 The Supplier must ensure that Supplier Subcontractors are insured as is appropriate (including with respect to the amount of insurance, types of insurance and period of insurance) given the nature of services or work to be performed by them, in a manner consistent with the requirements of this clause 41 as if they were the Supplier.

42. TERMINATION

42.1 The Department's Right to Terminate for Default

42.1.1 The Department may at any time by notice in writing Terminate the Agreement (in whole or in part) as from the date of service of such notice if:

- (a) the Supplier commits a Material Default which is capable of being remedied and the Supplier fails to remedy such Material Default within thirty (30) days after notice by the Department (or such longer period if agreed by the Parties);
- (b) the Supplier commits a Material Default which is not capable of being remedied as advised by the Supplier;
- (c) the Supplier commits repeated Defaults of its duties or obligations under the Agreement, the cumulative effect of which must be deemed to be a Material Default of the Agreement, and the Supplier must have failed to remedy such Material Default within thirty (30) days after notice by the Department (or such longer period if agreed by the Parties);
- (d) an Insolvency Event occurs in respect of the Supplier;
- (e) the Supplier, any Affiliate of the Supplier or Subcontractor that fulfils Services Requirements under the Agreement, brings the Department into serious disrepute or otherwise commits willful act or deliberate omission (or is subject to any other event) reasonably likely to bring the

Department into serious disrepute or to materially adversely affect the Department's reputation, or the Supplier's reputation is damaged in such a way as to make it unsuitable to provide the services under the Agreement, provided in each case, that the Department has given the Supplier notice of the circumstances giving rise to such disrepute and has given the Supplier reasonable opportunity to rectify such circumstances (which are capable of being rectified);

- (f) there is a Change of Control of the Supplier which, in the Department's reasonable opinion, is to the Department's detriment or is likely to be to the detriment of the Department except where the Department:
 - (i) has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) has not served its notice to Terminate within six (6) months after the date on which the Department was given notice of the Change of Control; or
- (g) if the Supplier breaches clause 49.1 and the Department exercises its option to Terminate the Agreement in accordance with clause 49.2 below

42.2 The Department's Right to Terminate for Convenience

42.2.1 The Department, by giving written notice to the Supplier, may Terminate the Agreement for convenience (in whole or in part) at any time during the Term, as of the date specified in the notice of Termination.

42.2.2 For the avoidance of doubt, any removal of a Business Requirement from the scope of the Agreement pursuant to clause 13.2 above must be deemed a Termination for Convenience under this clause 42.2.

42.2.3 Where there has been a termination under clause 42.2, the Department will be liable only:

- (a) to pay Service Charges relating to those parts of the Requirement completed before the effective date of termination; and
- (b) to reimburse any expenses reasonably and unavoidably incurred by the Supplier and directly attributable to the termination or reduction based on the amounts specified in Schedule 5 (Pricing) where the Supplier substantiates these amounts to the satisfaction of the Department.

42.2.4 The Department is not liable to pay compensation under clause 42.2 in an amount which would, in addition to any amounts paid or due or becoming due to the Supplier under this contract, together exceed the Service Charges.

42.2.5 Upon receipt of a notice of termination (in whole or in part), the Supplier agrees to:

- (a) stop (in whole or in part) work as specified in the notice;
- (b) take all available steps to minimise loss resulting from that termination or reduction (in whole or in part); and

(c) continue work on any part of the Services not affected by the notice.

42.2.6 Where there has been a reduction in the scope of the Services, the Supplier's entitlement to receive Service Charges ^{s47C} for those aspects of the Services will, unless there is agreement in writing to the contrary, abate in accordance with the reduction in the Services.

43. CONSEQUENCES OF TERMINATION

43.1 In the event that the Agreement is Terminated the following provisions must apply:

43.1.1 notwithstanding the provisions of clauses 43.1.2 and 43.1.3 below, the Supplier must provide the Exit Assistance in accordance with and subject to Schedule 4 (**Transition Management**);

43.1.2 except for obligations that are expressed to survive termination the Department's obligations to the Supplier cease on the Termination Date of the Agreement. To avoid doubt the Department will continue to have obligations under clause 42.2 and Schedule 4 (**Transition Management**); and

43.1.3 the Supplier must deliver up to the Department or destroy, at the sole discretion of the Department, all property owned by the Department, including but not restricted to the Department Data, in its possession.

43.2 The Termination of the Agreement will not prejudice or affect any right of action or remedy which must have accrued or must thereafter accrue to either Party.

43.3 The Survival clauses must continue to have full force and effect for as long as is necessary to protect the interests of either Party.

44. RELIEF EVENTS

44.1 The Supplier is entitled to relief from its obligations under and in accordance with this clause 44 if to the extent that a Relief Event:

44.1.1 is the direct cause of a delay in achieving any Transition Milestone on or before the relevant associated Milestone date or in accordance with the Transition Plan or any other plan agreed between the Parties pursuant to the Agreement; and/or

44.1.2 prevents or delays the Supplier from observing and/or performing any of its obligations under the Agreement.

44.2 The following events and/or circumstances will not be regarded as a Relief Event that relieves liability under clause 44.1:

44.2.1 an event or circumstance within the scope and specification of any back-up, contingency planning, business continuity or disaster recovery services set out in the Agreement except to the extent that those Services are themselves directly affected by a Relief Event;

44.2.2 a failure by a Supplier Subcontractor to perform any obligation owed to the Supplier unless and to the extent that the failure is directly caused by a Relief Event directly affecting that Supplier Subcontractor; or

- 44.2.3 an event or circumstance caused by a Default (or other act or omission) by the Supplier or a Supplier Subcontractor unless such Default (or other act or omission) is itself due to a Relief Event.
- 44.3** As soon as reasonably practicable (and in any event within five (5) Business Days after the Supplier became aware that the Relief Event has caused or is likely to cause delay and/or adversely affect the ability of the Supplier to observe and/or to perform its other obligations) the Supplier must give the Department notice (a “**Relief Notice**”) of:
- 44.3.1 its claim for relief from its obligations under the Agreement, including full details of the nature of the Relief Event;
- 44.3.2 the date of occurrence;
- 44.3.3 its likely duration (if known) and the proposed period of relief;
- 44.3.4 its causes and any supporting information of which the Supplier or any of its staff or agents are aware; and
- 44.3.5 a preliminary indication of the relief claimed.
- 44.4** Relief Notices may be given by e-mail (provided that the e-mail is confirmed by telephone), and must set out clearly the information available to the Supplier at that time as to the nature and consequences of the event.
- 44.5** The Department will consider the claim for relief in good faith and in accordance with this clause 44 and;
- 44.5.1 where the Department is reasonably satisfied that the Relief Notice relates to a Relief Event, will accept the same; and
- 44.5.2 where the Relief Notice relates to a Relief Event that is a Force Majeure Event, the Parties will mutually discuss on steps, if any, that can be taken to mitigate the Force Majeure Event.
- As soon as reasonably practicable after despatch to the Department of the Relief Notice, the Supplier must give full details of the relief claimed.
- 44.6** The Parties must consult at regular intervals to agree any steps to be taken, and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by a Relief Event (on a temporary or permanent basis). At all times following the occurrence of a Relief Event and during its subsistence, the Parties must use Commercially Reasonable Efforts to prevent and mitigate the effect of the Relief Event and must take all steps (in accordance with Good Industry Practice) to overcome or minimise the consequences of the Relief Event.
- 44.7** The Department must notify the Supplier in writing of the period of relief to be granted (the “**Relief Period**”). The Department must act reasonably in assessing the appropriate duration of the Relief Period to be granted.
- 44.8** **Reserved**
- 44.9** The Supplier must notify the Department if, at any time, it receives or becomes aware of any further information relating to the Relief Event. The Supplier must give details

of that information to the extent that such information is new or renders information previously submitted materially inaccurate or misleading.

44.10 The Supplier must notify the Department as soon as practicable after the Relief Event ceases or no longer causes the Supplier to be delayed or adversely affect the Supplier's ability to observe and/or to perform the impacted obligations. Following such notification, the Agreement must continue to be performed on the terms existing immediately prior to the occurrence of the Relief Event).

44.11 Without limiting the other rights or remedies of any Party, and subject to clause 44.12, if a Relief Event substantially prevents or delays the Supplier's performance necessary for the performance of a function reasonably identified by the Department as critical:

44.11.1 for more than three (3) consecutive Business Days, then the Department may at its option procure, or direct the Supplier to procure, that function from a third party service provider for the period of the Relief Event, in which case the Supplier must be liable for meeting the costs of the third party service provider and in which case the change to the Service Charge s47C will be agreed between the Department and the Supplier; and

44.11.2 for more than thirty (30) consecutive Business Days, then the Department may remove the affected function from the scope of the Agreement or Terminate the Agreement in whole or in part as of the date specified by the Department in a written notice of Termination to the Supplier, provided that the Department must at all times exercise this right in good faith having regard to the scale of the Relief Event and the extent to which it impacts the Department and such Termination shall be deemed to be either partial or whole Termination for Convenience.

44.12 The Department may exercise any of its rights in clause 44.11 immediately if it is clear to both Parties that the effect of the Relief Event on the critical function is not capable of being remedied or avoided within the relevant time period specified in clause 44.11.

44.13 Reserved

44.14 For the avoidance of doubt, nothing in this clause 44 must affect the Supplier's obligations to provide back-up, contingency planning, business continuity or disaster recovery services that the Supplier has agreed to provide to the Department under the Agreement or any other agreement for such services.

45. TRANSITION MANAGEMENT

The Supplier must provide all transitioning assistance in accordance with Schedule 4 (**Transition Management**) for all Transition phases.

46. STEP-IN

46.1 Each of the following is a Step-In Event:

46.1.1 an event set out in clause 42.1 **Error! Reference source not found.;**

- 46.1.2 an event or circumstance, which arises out of or in connection with the Services that poses a serious threat to, or causes or will cause material damage or material disruption to the performance of the Services;
- 46.1.3 a delay in the Supplier meeting an obligation that is, in the Department's reasonable opinion, a critical obligation and the Supplier does not start to remedy the relevant delay within 24 hours after being given Notice by the Department requiring the Supplier to remedy the relevant event or fails to remedy the relevant event within 20 Business Days (or such longer period as agreed by the Department) after being given that Notice; or
- 46.1.4 the Supplier seeks to terminate the Agreement other than in accordance with its legal rights under the Agreement or at Law, or otherwise repudiates or abandons the Agreement.

46.2 If:

- 46.2.1 a Step-In Event occurs; and
- 46.2.2 the Department has given notice to the Supplier in accordance with clause 46.3,

then a Step-In Party may exercise all or any of the Step-In Powers set out in clause 46.5 (**Step-In Right**).

46.3 The notice referred to in clause 46.2.2:

- 46.3.1 must be in writing and must specify:
 - (a) the Step-In Event which has triggered the Step-In Right;
 - (b) the date on which the relevant Step-In Party proposes to commence performing the relevant Services; and
 - (c) the date on which the relevant Step-In Party proposes to cease performing the relevant Services; or
- 46.3.2 may be given orally if the Department considers that the Step-In Event requires urgent remedy or action and there is insufficient time to issue a written notice under clause 46.3.1, but if given orally must be followed within 24 hours by a written notice under clause 46.3.1.

46.4 The Step-In Right is without prejudice to the Department's other rights in respect of a Step-In Event, including its rights under clauses 42 and 47.**46.5** A Step-In Party may in performing the Services referred to in the Notice under clause 46.2.2, do anything in respect of those activities that the Supplier could do including:

- 46.5.1 enter into and remain in possession of all or any of the Assets;
- 46.5.2 operate and manage all or any of the Assets;
- 46.5.3 exercise all or any of the Supplier's rights, and perform all or any of the Supplier's obligations in connection with the performance of the Services or under or in relation to any approval held by the Supplier as if it were the Supplier, to the exclusion of the Supplier;

46.5.4 exercise all or any of the Supplier's rights, and perform all or any of the Supplier's obligations under or in relation to the Agreement or any other agreement to which the Supplier is a party;

46.5.5 take any other action that the Step-In Party considers necessary or desirable; and

46.5.6 do anything incidental to the matters listed in clauses 46.5.1 to 46.5.5,

(Step-In Powers).

46.6 Noting that the Supplier may prefer to continue to provide the Services, the Department may require the Supplier to seek to procure the affected Services from a third party supplier, in which case the Supplier will promptly nominate a third party supplier to provide the Services for the Department's approval. If the Department:

46.6.1 approves the Supplier's nominated third party supplier, the Supplier will engage that third party supplier to provide the Services; or

46.6.2 rejects the Supplier's nominated third party supplier, the Department may direct the Supplier to use a different third party supplier.

46.7 The Supplier must:

46.7.1 cooperate with the Step-In Party in the exercise of the Step-In Powers to enable the Step-In Party to exercise the Step-In Powers effectively and expeditiously; and

46.7.2 ensure that its Related Bodies Corporate and Supplier Personnel do likewise.

46.8 Without limiting clause 46.7, the Supplier must:

46.8.1 allow the Step-In Party to access and use:

(a) all or any of the Assets including Material and Software;

(b) the Supplier Personnel; and

(c) any information the Step-In Party reasonably requires;

46.8.2 comply with all reasonable directions given by the Step-In Party;

46.8.3 return to the Department the Department Material, and remove Supplier Personnel and equipment or other items from the Supplier Facilities, as directed by the Department; and

46.8.4 ensure that its Subcontractors do likewise,

to enable the Step-In Party to exercise its Step-In Powers.

46.9 The Supplier irrevocably appoints the Department as its attorney with full power to exercise the Step-In Powers (or to delegate the exercise of the Step-In Powers to another Step-In Party).

- 46.10** The Supplier's obligations under the Agreement will be suspended to the extent and for such period as is necessary to permit the Department to exercise its Step-In Rights.
- 46.11** The Step-In Party may cease to exercise the Step-In Rights at any time and, in any event, must cease to exercise its Step-In Rights once the relevant breach has been remedied or the Step-In Event or circumstance has ceased (as applicable).
- 46.12** The Department must give written Notice to the Supplier of the date on which the Step-In Party will cease to exercise the Step-In Powers (which Notice must be given by the Department to the Supplier a reasonable time prior to the date the Step-In Party proposes to cease to exercise the Step-In Powers).
- 46.13** The Department and the Supplier must consult with each other with the intention of ensuring that the transition from the Step-In Party ceasing to exercise the Step-In Powers to the Supplier resuming the performance of the relevant Services is effected without interruption to the Services.
- 46.14** Upon the Step-In Party ceasing to exercise the Step-In Powers, the Supplier must resume the performance of the relevant Services in accordance with the Agreement (unless the Agreement has been terminated).
- 46.15** If the Step-In Event is:
- 46.15.1 an event of the kind referred to in clauses 46.1.1 or 46.1.3; or
 - 46.15.2 an event or circumstance of the kind referred to in clause 46.1 in circumstances where the Supplier including its Related Bodies Corporate and Supplier Personnel has caused or contributed to the event or circumstance,
- then:
- 46.15.3 subject to clause 46.15.4, to the extent and for such period as the Supplier is prevented from providing the Services as a result of the Step-In Party exercising the Step-In Rights, the Department must pay to the Supplier the Service Charges in respect of any Services which are performed by the Supplier; and
 - 46.15.4 the Department will be entitled to deduct from the Service Charges an amount equal to:
 - (a) the Loss suffered or incurred by the Department in connection with the Step-In Party exercising the Step-In Right; and
 - (b) the cost savings derived by the Supplier from not providing the relevant Services (assuming the Supplier would have provided a level of service in accordance with the Agreement).
- 46.16** If the Loss suffered or incurred by the Department in connection with the Step-In Party exercising the Step-In Right exceeds the Service Charges, the Department or its nominee may recover from the Supplier the difference between the amount of the Loss and the Service Charges.
- 46.17** If the Step-In Event is an event or circumstance of the kind referred to in clause 46.1.2 or 46.1.4 in circumstances where the Supplier including its Related Bodies Corporate and Supplier Personnel have not caused or contributed to the event or

circumstances, to the extent and for such period as the Supplier is prevented from providing the Services as a result of the Step-In Party exercising the Step-In Rights, the Department must pay to the Supplier:

46.17.1 the Service Charges in respect of any Services which are affected by the Step-In Party's exercise of the Step-In Rights, less an amount equal to the cost savings derived by the Supplier from not providing the relevant Services (assuming the Supplier would have provided a level of service in accordance with the Agreement); and

46.17.2 the extra costs reasonably incurred by the Supplier (substantiated to the Department's satisfaction) as a result of the Step-In Party's exercise of the Step-In Rights.

46.18 The Supplier acknowledges that, subject to clauses 46.15 and 46.17, the Department will have no liability to the Supplier, and the Supplier will not be entitled to make any claim against the Department arising out of or in connection with:

46.18.1 any conduct, delay, negligence or breach of duty in the exercise or non-exercise of a Step-In Power; nor

46.18.2 for any Loss which results,

except where it arises from any wilful misconduct or any unlawful or negligent act or omission on the part of the Department or its nominee.

46.19 The Supplier acknowledges that a Step-In Party is not under any obligation to remedy the Step-In Event nor to overcome the risk or mitigate any consequences resulting from the Step-In Event.

46.20 If:

46.20.1 the event giving rise to the Step-In Event has not been remedied or resolved within a period of 40 Business Days after the date that the notice under clause 46.2.2 was given, or such later date for remedy or resolution agreed to by the Department and the Supplier; or

46.20.2 in the Department's reasonable opinion it is unlikely that the Supplier will be able to continue to perform the Services upon the remedy or resolution of the Step-In Event,

46.21 If the Agreement is terminated in the circumstances referred to in clause 46.20 the Supplier is not entitled to any termination compensation or payment whatsoever, including any payment in relation to the remaining period of the Agreement.

46.22 No action of the Department or its nominee under this clause 46 limits or otherwise affects the Supplier's liability to the Department with respect to any default or non-performance by, or other liability of, the Supplier under the Agreement.

47. REMEDIATION

47.1 If:

47.1.1 except in case of occurrence of any Relief Event, where any Default or non-performance by the Supplier under the Agreement in relation to the Service Requirements or Services substantially and adversely affects the performance

of any critical the Department function for more than five (5) Business Days unless otherwise agreed in the Business Continuity Plan; and

47.1.2 such applications, system or Service is part of or provided from a Supplier Facility,

then in respect of such Supplier Facilities, the Department will be entitled to appoint a representative (who may be Department Personnel or a third party other than a Direct Competitor of the Supplier) who, in addition to having all of the rights of an auditor under clause 34, will have the right to:

47.1.3 have reasonable, free and safe access to the Supplier Facility, if necessary during the hours of operation of the Supplier Facility, for the purpose of examining and assessing the provision of the Services from the Supplier Facility, interviewing Supplier Personnel at the Supplier Facility, having the Supplier perform tests under observation and viewing performance data; and

47.1.4 receive reasonable cooperation from the Supplier; and

47.1.5 make reasonable recommendations to the Supplier in relation to the Supplier Facility to address such Default or non-performance by the Supplier under the Agreement.

47.2 Where the representative appointed by the Department under clause 47.1, makes a recommendation to the Supplier under clause 47.1.5, the Supplier must promptly comply with any reasonable recommendation. If the Supplier disputes the reasonableness of a recommendation, it must provide reasons why. If the Supplier disputes a recommendation, then the dispute will be referred for resolution in accordance with the Dispute Resolution Procedures in Section 7 of Schedule 7 (**Governance**).

47.3 In exercising such rights and determining the reasonability of recommendations, the Supplier will take into account the interests of all clients deriving services from the Supplier Facility, the Department's objectives set out in the Recitals of the Agreement and the Supplier's obligations under the Agreement.

47.4 The Supplier must immediately notify the Department if a third party exercises or threatens to exercise any step-in rights of the third party in relation to a Supplier Facility, giving details of the name of the third party, the reason for the step-in or threatened step-in, and the likely effect on the Services.

47.5 If a third party exercises step-in rights in relation to a Supplier Facility, the Supplier:

47.5.1 is responsible for providing continuity of service in relation to the Services, regardless of the third party step-in;

47.5.2 will meet forthwith with the Department to demonstrate how it will satisfy its obligations under this clause 47;

47.5.3 unless contractual arrangements made prior to the Effective Date will prevent the Supplier from doing so, will not comply with, and will dispute, any recommendation of the third party that will adversely impact on the Services; and

47.5.4 in dealing with the third party, will take into account the interests of all clients deriving services from the Supplier Facility, including the Department, as well as the Department's objectives and the Supplier's obligations under the Agreement.

47.6 If the Department appoints representatives under clause 47.1 or a third party exercises step-in as mentioned in clause 47.4 in relation to a Supplier Facility at similar times, then, in addition to the foregoing, the Supplier will (to the extent that such Supplier Facility is within its control) treat all clients fairly and equally, and will not give preference to another client over the Department, subject to contractual arrangements made prior to the step-in event relating to the allocation of resources.

47.7 The Supplier must pay all costs associated with arising under or in connection with this clause 47.

48. HEALTH AND SAFETY

48.1 Nothing in the Agreement releases either Party from their obligations under any requirements of Law in relation to health and safety to provide prior written notice of any health or safety hazards associated with equipment, material or other substances supplied by either Party, or facilities used in the performance of work under the Agreement in accordance with Schedule 13 (**Applicable Requirements**).

48.2 Environmental Requirements

48.2.1 Without limiting Schedule 13 (**Applicable Requirements**), the Supplier must perform the Services in such a manner as to conserve appropriately energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

48.2.2 The Supplier must perform its obligations under the Agreement in such a way that:

- (a) the Department is not placed in breach of; and
- (b) the Department is able to support and to make full use of the supplies for the purposes for which they are intended without being in breach of,

any applicable environmental legislation including the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) and any local environmental legislation where the Services are provided.

49. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

49.1 The Supplier must neither:

49.1.1 offer or give or agree to give any person employed by the Department any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Agreement or any other agreement with the Department or for showing or forbearing to show favour or disfavour to any person in relation to the Agreement; nor

- 49.1.2 enter into the Agreement if in connection with it commission has been paid or agreed to be paid to any person employed by the Department or acting on its behalf by the Supplier or on the Supplier's behalf or to the Supplier's knowledge, unless before the Agreement is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Department.
- 49.2** Subject to clause 49.4, in the event of any breach of this clause 49 by the Supplier or by anyone employed by the Supplier or acting on the Supplier's behalf, including Supplier Subcontractors, (whether with or without the knowledge of the Supplier), the Department may summarily Terminate the Agreement for Material Default in accordance with clause 42.1.1 above by notice in writing to the Supplier. Provided always that such Termination must not prejudice or affect any right of action or remedy which must have accrued or must accrue thereafter to the Department and provided always that the Department may recover from the Supplier the amount or value of any such gift, consideration or commission.
- 49.3** The decision of the Department must be final and conclusive in any dispute, difference or question arising in respect of:
- 49.3.1 the interpretation of this clause 49; or
- 49.3.2 the right of the Department under this clause 49 to Terminate the Agreement; or the amount or value of any such gift, consideration or commission.
- 49.4** Without limiting clause 42.1.1(e), if the breach of clause 49 is committed by a member of the Supplier or Supplier Subcontractor Personnel without the Supplier's knowledge and despite the Supplier having used Commercially Reasonable Efforts to prevent such breach, the Department may terminate the Agreement for Material Default in accordance with clause 42.1.1 unless the Supplier terminates the employment of such member of the Supplier Personnel or has the Services of such Subcontractor personnel terminated and demonstrates to the Department's reasonable satisfaction that it has implemented adequate controls and procedures to prevent subsequent reoccurrences of such breach.
- 50. NOTICES**
- 50.1** Notices given under the Agreement must be in writing in the English language and made by an authorised officer of the Department or the Supplier and delivered to the Department Representative or Supplier Representative, as the case may be, in accordance with the Contract Particulars specified in Schedule 1 (**Definitions and Agreement Particulars**).
- 50.2** The representative and address of either Party may be altered by notice given in accordance with clause 50.1 above. The Parties must, from time to time, provide each other with a list of personnel designated as "authorised officers".
- 50.3** A notice given in accordance with clauses 50.1 will be deemed to be received:
- 50.3.1 if delivered at the recipient's address during normal business hours, on the date of delivery;
- 50.3.2 if sent by prepaid international registered post, seven (7) days after the date of posting;

50.3.3 if sent by an express courier with a reliable system for tracking delivery, on the date of delivery to the recipient; and

50.3.4 if sent by fax or electronic mail to the fax number or electronic mail address specified above (as may be altered by giving notice in accordance with this clause 50) during normal business hours, and provided that a confirmation copy is sent by the Party giving notice in accordance with a method specified above, upon receipt as evidenced by production of a satisfactory transmission report by the fax machine which sent the fax or receipt by the notifying Party of a confirmation of receipt report in respect of the electronic mail sent, as appropriate, or if outside the normal business hours of the recipient, then at the beginning of the recipient's next Business Day.

51. GENERAL PROVISIONS

51.1 Except as otherwise expressly stated in the Agreement, the Supplier may not assign, novate or otherwise transfer its rights or transfer its obligations under the Agreement without the prior written consent of the Department.

51.2 The Department is entitled to assign, novate, or otherwise transfer its rights or obligations under the Agreement or any part thereof to any other Agency of the Commonwealth provided that any such assignment, novation or transfer must not increase the burden of the Supplier's obligations pursuant to the Agreement.

51.3 Notwithstanding the provisions of clause 27, in the event of an assignment, novation or transfer (as applicable) pursuant to clauses 51.1 or 51.2 above, the Department is entitled to disclose to any transferee any Confidential Information of the Supplier which relates to the fulfilment of the Services Requirements by the Supplier or their Successor Supplier. In such circumstances, the Department will authorise the transferee to use such Confidential Information only for purposes relating to the fulfilment of the Services Requirements. Where the Department provides Supplier Confidential information to such transferee in accordance with clause 51, the Department shall impose such conditions or requirements (such as the giving of a written undertaking by that party) as it considers necessary.

51.4 Any change in the legal status of the Department will not affect the validity of the Agreement. In such circumstances, the Agreement will bind and inure to the benefit of any successor body to the Department.

51.5 Except with the written consent of the other Party neither Party must make any press announcements or publicise the Agreement in any way, such consent must not be unreasonably held or delayed. Both Parties will take all reasonable steps to ensure the observance of the provisions of this clause 51.5 by all their servants, employees, agents and consultants. The Department is entitled to publicise the Agreement in accordance with any legal or quasi legal obligation upon the Department, including any examination of the Agreement by the Australian National Audit Office or Privacy Commissioner. Where the Supplier is required to release the Agreement in accordance with any legal or quasi legal obligation, in such circumstances the Supplier must seek prior approval from the Department.

51.6 Independent Supplier and Relationship between the Parties

51.6.1 The Supplier, in providing the Services, is acting as an independent contractor to the Commonwealth. Nothing in the Agreement, including references to "partnership", creates any relationship of agent and principal, partnership, or

employer and employee between the Parties or between one of the Parties and the other Party's personnel, agents, employees or subcontractors.

51.6.2 Nothing in the Agreement must give either Party any authority to act or make representations or commitments on behalf of the other Party or to create any contractual liability to a third party on behalf of the other Party.

51.7 Amendments and Variations

The Agreement will not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative of the Department and by the duly authorised representative of the Supplier acting on behalf of the Department and the Supplier, respectively, as applicable.

51.8 Entirety of Agreement

The Agreement constitutes the entire agreement between the Parties as to its subject matter; and in relation to that subject matter, and, in the absence of fraud, supersedes any prior warranties, indemnities, undertakings, conditions, understanding, commitments or agreements between the Parties, whether oral or written.

51.9 Governing Law

51.9.1 Without prejudice to the Supplier's obligations under clause 29.1, the construction, performance and validity of the Agreement is governed by the laws of the Australian Capital Territory, Australia and each party submits to the non-exclusive jurisdiction of the courts of that jurisdiction.

51.9.2 Subject to clause 51.9.1 above and the procedures set out in the Dispute Resolution Procedures in Section 8 of Schedule 7 (**Governance**) (to the extent such procedures are applicable), the Parties irrevocably agree that the courts of the Australian Capital Territory have, and the Parties submit to, the exclusive jurisdiction of the courts of the Australian Capital Territory to settle any disputes which may arise out of or in connection with the Agreement and that accordingly any proceedings arising out of or in connection with the Agreement must be brought in such courts located in Canberra, Australian Capital Territory and the Parties waive any objection to proceedings in any such courts on the ground of venue or on the ground that the proceedings have been brought in an inconvenient forum.

51.10 No Waiver

No delay, neglect or forbearance on the part of either Party in enforcing against the other Party any term or condition of the Agreement will either be or be deemed to be a waiver or in any way prejudice any right of that Party under the Agreement.

51.11 Severance

If any provision of the Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision will be severed and the remainder of the provisions hereof will continue in full force and effect as if the Agreement had been executed with the invalid provisions eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Agreement, the Department and the Supplier must immediately commence good faith negotiations to remedy such invalidity.

51.12 Counterparts

The Agreement may be executed in several counterparts, all of which taken together will constitute one single agreement between the Parties.

52. CONFLICTS OF INTEREST

- 52.1** The Supplier must take appropriate steps to ensure that neither it nor any Supplier Subcontractor nor any member of the Supplier Personnel is placed in a position where there is or may be a Conflict of Interest (or potential Conflict of Interest). The Supplier must provide to the Department all details known to the Supplier of any Conflict of Interest (or potential Conflict of Interest) which arises or which may arise.
- 52.2** Where the performance of the Supplier's obligations involves advice as to selection of alternative courses of action or advice upon the acquisition of software, goods, services and/or rights, the Supplier must give such advice in an impartial, independent and unbiased manner and in the best interests of the Department, irrespective of the interests of the Supplier, or of any benefit to the Supplier (or any Supplier Group Company) arising directly or indirectly from such advice. The Supplier must require each Supplier Subcontractor to comply with such obligation as it may relate to interests or potential benefit to that Supplier Subcontractor or any Affiliate of that Supplier Subcontractor.

Executed as a deed

SIGNED, SEALED AND DELIVERED for and on behalf of the
COMMONWEALTH OF AUSTRALIA
by its duly authorised delegate in the presence of:

[INSERT NAME]

Signature

[INSERT POSITION]

[INSERT BRANCH/DIVISION]

Department of Immigration and Border Protection

____/____/____

Date

in the presence of

(Please print name of Witness)

Signature

____/____/____

Date

Executed by [INSERT SUPPLIER NAME]

in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Director Signature

Director/Company Secretary Signature

Name

Name

____/____/____

Date

____/____/____

Date

SCHEDULE 1
DEFINITIONS AND AGREEMENT PARTICULARS

CONTENTS

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2.	PART A – AGREEMENT PARTICULARS	2
3.	PART B – DEFINITIONS.....	3

DEFINITIONS AND AGREEMENT PARTICULARS**1. INTRODUCTION****1.1 Overview of Schedule 1**

- 1.1.1 This Schedule 1 (**Definitions and Agreement Particulars**) provides the agreement particulars and the definitions for the Agreement. The definitions in this Schedule 1 (**Definitions and Agreement Particulars**) apply across the entire Agreement unless a specific contrary intention appears.

1.2 Structure of Schedule 1

- 1.2.1 This Schedule 1 (**Definitions and Agreement Particulars**) comprises the following:
- (a) **Part A** – Agreement Particulars; and
 - (b) **Part B** – Definitions.

2. PART A – AGREEMENT PARTICULARS

Department Representative	[INSERT POSTION] Address: 6 Chan Street, Belconnen, ACT, 2617, Australia Telephone: [INSERT TELEPHONE NUMBER] E-mail: ces.procurement@border.gov.au
Supplier Representative	[INSERT SUPPLIER REPRESENTATIVE NAME] Address: [INSERT SUPPLIER ADDRESS] Telephone: [INSERT SUPPLIER TELEPHONE] E-mail: [INSERT SUPPLIER EMAIL]
Expiry Date	[INSERT EXPIRATION DATE].
Option Period	Any number of periods of no less than 3 months duration each, unless otherwise agreed by the parties, but not exceeding four years in aggregate.

3. **PART B – DEFINITIONS**

Note to Tenderers: This Part B – Definitions will be based upon the definitions contained in Attachment A – Glossary.

SCHEDULE 2
BUSINESS REQUIREMENTS AND SUPPLIER'S SOLUTION

CONTENTS

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BUSINESS REQUIREMENTS AND SUPPLIER'S SOLUTION

Note to Tenderers: This Schedule 2 will be based on **Attachment B – Statement of Requirement** and the successful Tenderer's solution (if any).

SCHEDULE 3
SECURITY

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SECURITY**1. INTRODUCTION**

- 1.1** This Schedule 3 (**Security**) describes the Department's security requirements that the Supplier is required to meet or exceed during the Agreement Term in the fulfilment of the Services Requirements.
- 1.2** In this Schedule 3 (**Security**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SECURITY POLICY

- 2.1** The parties will agree to, and the Supplier must adopt and comply with, a security policy that is supported by appropriate organisational, security and technical security standards (the "**Security Policy**") which:
- (a) is consistent with and complies with the relevant aspects of the Department Security Policy and Standards which will be provided to the Supplier by the Department;
 - (b) conforms to appropriate Australian Government security policies, standards and requirements as are available in the public domain or are provided to the Supplier by the Department;
 - (c) conforms to ISO/IEC 27002:2013 (Information technology -- Security techniques -- Code of practice for information security management) and/or ISO/IEC 20000-1:2012 "Information technology - Service management"; or their equivalent as these standards are updated from time to time;
 - (d) reflect Good Industry Practice; and
 - (e) meet the other security requirements set out in this Schedule 3 (**Security**) and any other part of the Agreement.
- 2.2** The Supplier acknowledges that the key elements of the Security Policy are to:
- (a) provide appropriate protection for all Department Personnel, Assets and Clients;
 - (b) ensure the continuity of the Department's business; and
 - (c) protect people, premises, property and information (in all its forms) against attack, theft, disclosure, unauthorised access, corruption or non-availability, whether by deliberate or accidental means.
- 2.3** The Supplier acknowledges that one of the key principles of the Security Policy is to manage risks, rather than prescribe fixed solutions. The Supplier will therefore be required to apply judgement in discharging its responsibilities and agree with the Department what constitutes "appropriate protection". However, in doing so, the Supplier must comply with applicable Commonwealth and Department security law and policies, including those obligations specified in the Australian Government Protective Security Policy Framework as amended from time to time. For the avoidance of doubt, it is solely the Supplier's responsibility to put in place the appropriate protection in relation to physical security provisions described in Sections 5 and 6, and the Supplier must also manage the relevant risks relating to such physical security.

- 2.4 The Supplier may propose changes to the Security Policy on an on-going basis to reflect Good Industry Practice. Any such changes will be processed through the Change Control Procedure as a Non-Chargeable Change. The parties acknowledge that, a request from the Department to move from one level of physical security (as such security levels are identified in Schedule 2) to a higher or lower level of security is to be carried out in accordance with the Change Control Procedure, including any resulting increase or decrease (as applicable) ^{s47C}

- 2.5 The Department will review the Department Security Policy and Standards on an ongoing basis. Changes will be made, from time to time, in response to changes in the Australian Government's security policy and as required for other reasons. Subject to the Department providing the relevant security documents described in Sections 2.1(a) and 2.1(b), the Supplier must:

- (a) keep up-to-date with all changes to these security policies; and
- (b) conform to them.

The Department may invite the Supplier to take part in the approval process that the Department operates when making policy changes but the Department will have the ultimate discretion in setting any new or changed security policy, standard or requirement. Changes to the Supplier's Solution and the Services Requirements that are necessary to meet changed security laws, policies, standards or requirements will be implemented through the Change Control Procedure.

3. SECURITY REQUIREMENTS

- 3.1 As described in Section 2.1, the Supplier must comply with all aspects of the Australian Government's security policy, as well as the Department Security Policy and Standards. This includes demonstrating conformance to ISO/IEC 27002:2013 and/or ISO/IEC 27001:2013 in

- (a) the Supplier's general security standards;
- (b) the processes involved in the maintenance and operation of existing IT systems; and
- (c) the development and operation of all future IT systems.

- 3.2 If required, the parties will work together during Transition to determine and define the scope of the Technical Infrastructure and Supplier's Solution that the Supplier must make compliant with ISO/IEC 27002:2013 and/or ISO/IEC 27001:2013.

- 3.3 The Supplier must ensure that Supplier Subcontractors comply with the Security Policy in the same way that the Supplier is required to comply with the Security Policy. Each Supplier Subcontract must include such aspects of this Schedule 3 (**Security**) as are appropriate to the Services Requirements to be fulfilled by that Supplier Subcontractor at the date of such Supplier Subcontract. Without prejudice to the Agreement Terms and Conditions and Section 13, the Supplier must carry out, or permit the Department or its authorised representative to carry out, security audits of the Supplier Subcontractors and the Facilities used by Supplier Subcontractors in the fulfilment of the Services Requirements in accordance with Schedule 12 (**Audit Access**) and at intervals agreed with the Department.

- 3.4 The Supplier must adopt appropriate and adequate security measures to ensure the operational integrity of the Enquiry Processes as described in Schedule 2 (**Business Requirements and Supplier Solution**).

4. MANAGING SECURITY

- 4.1 The Supplier must nominate an individual to be accountable for the management of security in relation to the Agreement (the "**Supplier Security Manager**"). The appointment of the Supplier Security Manager is subject to the approval of the Department.

- 4.2 The responsibilities of the Supplier Security Manager include:

- (a) representing the Supplier at all meetings that address security concerns, events and issues, except where the Department expressly requires otherwise;
- (b) ensuring that security is integrated into the Supplier's and the Supplier Subcontractors' day-to-day working with respect to the Services Requirements; and
- (c) receiving service updates on a monthly basis relating to security activities from each of the Supplier's nominated individuals responsible for each component of the Services Requirements. Such nominated individuals are to further report Security Incidents promptly to the Supplier Security Manager.

4.3 Security Policies and Procedures Manual

4.3.1 The Supplier must:

- (a) submit to the Department for approval a Security Policies and Procedures Manual including:
 - (i) relevant Information Security Manual requirements;
 - (ii) Acceptable Use;
 - (iii) Security Risk Management Plan (SRMP);
 - (iv) System Security Plan (SSP); and
 - (v) operational procedures; and
- (b) make updates to the Security Policies and Procedures Manual within 10 Business Days where these are reasonably requested by the Department.

4.3.2 The SRMP must:

- (a) detail effective and efficient management strategies for addressing all identified risks and, where relevant, implement such strategies within the timeframes specified by the Department;
- (b) include:

- (i) criteria for the Acceptance of risks including a cost versus risk benefit analysis;
- (ii) controls to mitigate risks where appropriate; and
- (iii) documentation and Acceptance of cases where transference of identified risks to third parties has taken place.

4.3.3 The SRMP must comply with:

- (a) AS/NZS ISO 31000:2009, Risk management - Principles and guidelines;
- (b) Australian Government Protective Security Policy Framework;
- (c) Australian Government Information Security Manual;
- (d) the Department's Security Policies;
- (e) the Department's Risk Management Framework; and
- (f) the Department's security objectives, operational requirements and constraints.

4.4 The Supplier must deliver assurance to the Department, within 10 Business Days of any such request for assurance, that:

- (a) the Supplier's Solution complies with the Security Policy and meets the applicable security standards; or
- (b) that the Supplier has implemented the appropriate risk management based alternative, as agreed in writing by duly authorised representatives of the Department, that enables the Supplier's Solution to be delivered without compromising the Security Policy or the applicable security standards.

4.5 The Department may, at any time, convene a meeting of a dedicated security management board to monitor the Supplier's management of security, discuss and resolve security issues, and share information. This board will consist of the Department's security staff, the Supplier Security Manager and the Supplier's security specialists.

4.6 The Supplier must provide to the Department regular reports on the status of security within the scope of the Services Requirements, as specified in Schedule 11 (**Reporting**).

5. PHYSICAL SECURITY REQUIREMENTS – GENERAL

5.1 During the Term and in accordance with Section 2.3, the Supplier must put in place and maintain appropriate security measures for the protection of:

- (a) Supplier Personnel, Clients, and/or any of the Department Personnel attending the Supplier Facilities;

- (b) property and Assets used to provide the Supplier Solution, including any Assets, Materials or Software provided to the Supplier by the Department;
- (c) all public money received by the Supplier on the Department's behalf, inclusive of cash, payment advice and documentation; and
- (d) information (in all its forms),

against attack, theft, disclosure, unauthorised access, corruption or non-availability, as applicable, whether by deliberate or accidental means.

- 5.2** As part of the Supplier's Solution, the Supplier must ensure that each location chosen as a Supplier Facility is safe and is suitable from a physical security perspective. The Supplier must ensure that adequate physical security measures are in place to protect the perimeter of the Supplier Facilities.
- 5.3** Notwithstanding the generality of Sections 5.1 and 5.2, the Supplier is responsible for, and must ensure, the health and safety of all Supplier Personnel, the Department Personnel, Clients and any other persons located on or visiting Supplier Facilities.
- 5.4** The Supplier must restrict access to non-public areas of the Supplier Facilities and the Technical Infrastructure to Authorised Personnel.
- 5.5** The Supplier must ensure that any access to Supplier Facilities or the Technical Infrastructure is strictly limited to such part of the Supplier Facilities or Technical Infrastructure as is required for the proper performance of the Supplier's obligations under the Agreement.
- 5.6** The Supplier must ensure that Clients and other members of the public cannot access non-public areas of the Supplier Facilities or the Technical Infrastructure.
- 5.7** The Department may, from time to time, notify the Supplier that particular Supplier Personnel must hold a particular level of Department security clearance and the Supplier must comply with, and ensure Supplier Personnel act in accordance with, that notice.
- 5.8** Without limiting Schedule 13 (**Applicable Requirements**), the Supplier must ensure compliance with the Department's work health and safety policies.
- 5.9** The Supplier must:
- (a) establish and maintain, at all Service Centres, proper and adequate facilities, Equipment (excluding Department Equipment), supplies and properly trained and appropriately resourced management and support Authorised Personnel;
 - (b) provide guidance and coordination for all activities during Equipment installations, routine maintenance, problem and crisis management including interfacing with facilities and technology groups, Other Service Providers and other relevant groups;
 - (c) undertake the physical access and escorting for visiting Department Personnel and Other Service Provider staff in Supplier Facilities.

6. PHYSICAL SECURITY REQUIREMENTS –SUPPLIER FACILITIES**6.1** The Supplier must ensure:

- (a) Service Centres must be located in areas with a high degree of safety (as far as possible). After the Effective Date, any new Service Centre that the Supplier proposes must firstly be submitted to the Department for clearance before the Supplier undertakes leasing and refurbishment arrangements. The relevant security officer must be consulted and kept informed throughout the refurbishment process, and even after occupation of the premises for any remodelling requirements.
- (b) After the Effective Date, before leasing any property from which Services will be provided, the Supplier's security team will make enquiries with the organisations occupying the neighbouring premises and the security agency servicing the commercial building about the security measures being followed in the premises and any past untoward incidents that may have occurred in the premises.
- (c) The Supplier must arrange for approved office premises to be surveyed by a recognised security agency prior to installation of necessary security devices like CCTV, intrusion detectors, fire alarms, etc.
- (d) In consultation with the Department, the Supplier must arrange for the installation of necessary security devices like CCTV, intrusion detectors, fire alarms, etc.
- (e) The Supplier must arrange for professional security guards to supervise and protect all public interface areas.

6.2 The parties acknowledge that such physical security standards and measures apply from the relevant Go-Live Date for each Supplier Facility. However, the parties acknowledge that the Supplier's physical security standards and measures may need to change as a result of the security risk assessment described in Section 6.3, as agreed in accordance with Schedule 8 (**Change Control**).

6.3 At least one (1) month prior to the relevant Go-Live Date, the Supplier must carry out a security risk assessment of the relevant Supplier Facility to the standard of the Security Risk Management Framework HB 167:2006, taking into account its location, to confirm if the physical security standards and measures are sufficient to meet the Supplier's security obligations under Section 5. Such security risk assessment may include a gap analysis or other processes to determine the Supplier Facility's physical security compliance.

6.4 At least one (1) month prior to the relevant Go-Live Date, the Supplier must issue a security assessment report to the Department in respect of the relevant Supplier Facility, which must include any recommendations by the Supplier to increase the physical security standards and measures for the relevant Supplier Facility. As part of such recommendation, the Supplier must include its proposed plan and associated cost impact for the implementation of the relevant recommendation by the Go-Live Date of the relevant Supplier Facility.

- 6.5** Unless an alternative date is agreed by the parties, within 10 Business Days after any recommendation made by the Supplier under Section 6.3 or 6.4, the parties will meet to discuss and agree whether the security standards or measures need to be increased for the relevant Supplier Facility or whether the recommendations proposed by the Supplier under Section 6.3 or 6.4 can be addressed by other means. Without prejudice to the allocation of costs under the provisions of Clause 29 (Regulatory and Legal Compliance) of the **Terms and Conditions**, any changes to these requirements are to be agreed by the parties in accordance with Schedule 8 (**Change Control**) and, unless agreed otherwise, the costs for such Changes are to be borne by the Supplier.
- 6.6** It is acknowledged by the parties that a Supplier Facility's security compliance with this Schedule 3 (**Security**) is one of the Readiness Criteria for the Go-Live Readiness Certificate. If the parties cannot agree to the proposed increase to the physical security standards and measures as recommended by the Supplier under Section 6.3 or 6.4 or the proposed plan for implementation of such recommendations cannot be implemented in time for the Go-Live Date of the relevant Supplier Facility, the parties will work together to agree an appropriate work-around until the required increase to security standards and measures is in place.
- 6.7** The Supplier must ensure that all Supplier Facilities achieve and maintain a Protective Security Policy Framework security accreditation as follows:
- (a) for all Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) a minimum Zone 2 Security Zone; and
 - (b) for all other Supplier Facilities, a minimum Zone 1 Security Zone.

In addition to this, the Supplier must:

- (c) control entry into the Supplier Facilities in order to maintain appropriate security standards;
- (d) comply with all Departmental directions regarding the physical access and control of the Supplier Facilities;
- (e) ensure all physical safety related devices and equipment are supplied, installed and maintained as per applicable International, Australian and Departmental standards;
- (f) ensure that all Supplier Facilities have appropriate fire, safety and evacuation training processes and procedures and that emergency drills are conducted on a regular basis;
- (g) ensure that first aid including access to appropriately trained first aid personnel is available on the premises;
- (h) Not Used;
- (i) maintain good relations with the local police station for assistance during extraordinary situations;
- (j) ensure all offices are secured with alarms and intrusion detection devices;

- (k) provide access to any security records, including access logs, CCTV footage and risk assessments to the Department within 10 calendar days of any request for such records or as otherwise agreed by the parties; and
- (l) ensure all records are stored safely and securely for whichever is the longer of the Term of the Agreement or as required by the *Archives Act 1983* (Cth).

6.8 The Supplier must ensure all Department Material is kept secure at all times, including:

- (a) storing all Department Material in a secure area where it will not be subject to extreme heat, cold, dampness or other adverse environmental conditions; and
- (b) where approved by the Department, disposing of broken, inoperable and surplus Equipment (including Supplier Equipment) in accordance with the PSPF, Information Security Manual (ISM) and the Department's security, Change Management and Asset Management policies; and
- (c) the provision of secure transport to and from Locations, as required.

7. PERSONNEL SECURITY REQUIREMENTS – GENERAL

7.1 All Supplier Personnel who will carry out work or perform duties under the Agreement and who will be required, while carrying out some or all of that work or performing some or all of those duties, to:

- (a) enter secure areas in Supplier Facilities unescorted;
- (b) access the Technical Infrastructure;
- (c) work with Department Personnel for extended periods;
- (d) have non-public access to Department Systems;
- (e) have access to Department Data or Client Data; or
- (f) hold a particular kind of security clearance (as described in Section 5.7 and 11.1),

are to be authorised by the Supplier to carry out that work or perform those duties. Those persons authorised in accordance with this Section 7 are referred to as an **"Authorised Person"** and collectively as the **"Authorised Personnel"**.

7.2 The Supplier is not to permit any of the Supplier Personnel or Supplier Subcontractors who are not Authorised Personnel to have access to any systems used to provide the Services. The Supplier must take active steps to ensure that Supplier Personnel or Supplier Subcontractors who cease to be engaged in the fulfilment of the Services Requirements are prevented from accessing any systems used to provide the Services.

7.3 Notwithstanding the specific requirements for Authorised Personnel with access to Client Data outlined in Section 11, the Supplier must use Commercially Reasonable

Efforts to ensure that thorough local background checks are carried out on all members of Supplier Personnel before they commence work on the Services. These are to include checking local criminal and security records. The Supplier should also obtain written references from former employers and require applicants to produce adequate documentary proof of their identity and residence (e.g., for identity: national ID card or passport and for residency: two (2) utility bills/bank statements). At the Department's request, the Supplier must provide the Department with the details of the results of these checks and references. To the extent the Supplier cannot obtain sufficient background information or carry out the background checks for any Supplier Personnel, the Supplier must promptly notify the Department and seek the Department's consent before such person(s) commence work on the Services. The parties may agree what action or work-around is required in respect of such person(s). However, the Supplier acknowledges that in such circumstances, the Department may, at its absolute discretion, withhold its consent for security reasons in respect of such person(s) commencing work on the Services. The Department may also require the Supplier to replace any Supplier Personnel in accordance with Section 4 of Schedule 9 (**Human Resource Management**).

8. PERSONNEL SECURITY REQUIREMENTS – SUPPLIER FACILITIES

8.1 The Supplier must require new Supplier Personnel to sign a confidentiality undertaking covering the following key points:

- (a) Supplier Personnel are to maintain complete confidentiality of all information they would have access to during their day-to-day working;
- (b) Supplier Personnel are not to discuss details of any Client or Enquiry with any person except their supervisor or a person nominated by the Department for that purpose;
- (c) Supplier Personnel are to be made aware that they are specifically prohibited from misusing their position to influence any visa, citizenship or trade application;
- (d) Supplier Personnel are to agree to a condition of employment wherein they may be frisked and their personal bags checked by authorised security personnel at time of entering or leaving the Supplier Facilities;
- (e) Supplier Personnel are to be made aware that they are specifically prohibited from misusing their proximity to the Department or Department Personnel to influence any visa, citizenship or trade application;
- (f) Supplier Personnel are to be reminded that the Supplier places the highest priority on confidentiality and ethical conduct, and on event of any misdemeanour, a zero-tolerance policy will be followed; and
- (g) Supplier Personnel involved in the removal of Client Data, the unauthorised distribution of Client Data, seeking a consideration from a Client, or attempting to influence a Department officer must be immediately removed from the Services.

8.2 The Supplier must:

- (a) ensure any visitors to facilities are suitably cleared or escorted; and
- (b) ensure all Authorised Personnel working on the Services have appropriate and relevant training in security practices and procedures.

8.3 All Supplier Personnel are to have unique identity cards, electronic gate cards and system login ids. All employees are to be informed at time of appointment that their movements as well as activity on the computers will be subject to surveillance.

8.4 As a policy, the Supplier must train all Supplier Personnel to multi-task to facilitate rotation and ensure that no Supplier Personnel develops a vested interest in any workstation or work practice.

8.5 Supplier Personnel providing support functions, such as security guarding, are also to be rotated to the maximum practicable extent possible.

9. CYBER SECURITY REQUIREMENTS – GENERAL

9.1 Data Security

9.1.1 The Supplier must ensure that the Supplier Personnel and the Supplier Subcontractors do not attempt to access, or allow access to, any data, files or programs used in the provision of the Services within the information systems environment, Department Materials or Department Data or Client Data to which they do not need access in order to provide the Services or are prohibited from accessing under the Agreement or by Law.

9.1.2 The Supplier must comply with the Privacy Act as well as the Department's reasonable guidelines and instructions on the storage, security and privacy of Department Data and Client Data which will include guidelines on the type of data that, and the length of time that data, can be stored on the Supplier's systems.

9.1.3 The Supplier must comply with the Payment Card Industry Data Security Standard (PCI-DSS) in the event of any credit card data being handed. This includes any person, business or organisation that receives, stores, processes or transmits credit card details.

9.1.4 The Supplier must ensure the security, confidentiality and integrity of all Client Data whilst such data is in the control of the Supplier, which includes whilst the Client Data is in transit between the Supplier and the Department.

9.1.5 The Supplier will prohibit and prevent Supplier Personnel and Supplier Subcontractors who do not require access in order to carry out their obligations under the Agreement from gaining access to Department Data and Client Data and to maintain systems security measures to guard against the unauthorised access, alteration or destruction of Department Material, Department Data and Client Data. At the least, these measures will include that:

- (a) all users are to be required to use a unique identification logon and password to access the Technical Infrastructure. The use of access control and file permissions are to be set to restrict users to data on a

"need to know" basis. Auditing of user access is to be provided. User activity is to be logged, archived for a minimum of six (6) months and centrally monitored using industry best practice. Client Data is to be encrypted to the Australian Signals Directorate (ASD) standards as per the Information Security Manual (ISM);

- (b) all users are to be required to change their passwords to access the Technical Infrastructure at least every three (3) months (or such other period agreed by the parties);
- (c) users' screens are to lock after a period of inactivity; and
- (d) disposal of faulty or redundant magnetic media (tapes, hard drives, etc.) must be carried out securely.

9.1.6 If the Supplier becomes aware of any contravention of the data security requirements of the Department or of unauthorised access by any of Supplier Personnel or Supplier Subcontractors, or any other unauthorised person, the Supplier must report the incident to the Department, describe in detail any accessed materials, return to the Department any copied or removed materials, where appropriate, and comply with all reasonable directions of the Department.

9.1.7 The Supplier Personnel and Supplier Subcontractors are not to:

- (a) collect, stop, process or otherwise make use of Department Data or Client Data for any purpose other than that which is directly in relation to the supply of the Services;
- (b) purport to sell, let for hire, assign rights in or otherwise dispose of any of Department Data or Client Data;
- (c) make any Department Data or Client Data available to any third party other than that which is necessary to enable that person to perform its part of the Services and then only to that extent; or
- (d) commercially exploit Department Data or Client Data.

9.1.8 The Supplier must establish and maintain safeguards against the destruction, loss or alteration of Department Data and Client Data in the possession of Supplier Personnel and Supplier Subcontractors. Without prejudice to the other rights of the Department under the Agreement, if in the provision of the Services any Department Data or Client Data is lost through the fault or negligence of Supplier Personnel or Supplier Subcontractors or any breach by the Supplier of the terms of the Agreement, the Supplier must regenerate such Department Data or Client Data to the most current back-up copy as required by the Agreement without additional expense to the Department and, in doing so, must use its Commercially Reasonable Efforts to ensure that the timings for the provision of the Services are not materially affected.

10. CYBER SECURITY REQUIREMENTS –SUPPLIER PROVIDED SYSTEMS

10.1 Access Management

10.1.1 The Supplier must:

- (a) maintain an audit trail of all activity that creates, changes, or deletes data and user access to all applications and systems managed by the

Supplier which contains Department Data and end-to-end traceability across Applications, Systems, and parties; and

- (b) capture data regarding routine access and exceptions for audit trail purposes, and make such data available to the Department upon request.

10.2 Service Management

10.2.1 The Supplier must:

- (a) base its Service Management practices on the "Information Technology Infrastructure Library" (ITIL) version 3; and
- (b) ensure compliance with the Department's policies, including data and records management, and electronic records and data archiving as well as the requirements of the PSPF, ISM and the Department's Security Policy and Standards.

10.3 Technical Support

10.3.1 The Supplier must:

- (a) implement engineering Changes and upgrades to improve the safety, security, performance and reliability of all Assets and Systems operated by the Supplier;
- (b) ensure all Assets and Systems operated by the Supplier are designed and deliver the Services in compliance with all relevant Laws and industry standards including Australian Government security standards;
- (c) perform modifications to all Assets and Systems operated by the Supplier as required to maintain compliance with changes in Laws and industry standards, including changes in telecommunications regulations and Australian Government security standards;
- (d) coordinate with Other Service Providers, the Department and/or other third parties as required by the Department for the purpose of meeting this Section 10.3.1.

10.4 Operations Services

10.4.1 The Supplier must:

- (a) ensure that any processing failure is managed in accordance with in accordance with the IT Operations Plan as approved by the Department;
- (b) perform data backup and recovery services;
- (c) ensure that any proposed use of outsourced cloud services are listed on ASD's Certified Cloud Services List (CCSL), in accordance with the ISM.
- (d) monitor performance of on-line interactive traffic;
- (e) force off users in accordance with procedures approved by the Department;
- (f) provide operational support for multiple releases of software as required by the Department;

- (g) on an ongoing basis, identify options to automate the operational and monitoring environment to reduce errors, increase efficiency and reduce Scheduled Downtime and, subject to approval of the Department, implement such initiatives into the environment;
- (h) provide a formally managed operational environment that ensures that processes and functions, including all configuration details and operational and maintenance processes and functions, are fully compliant with the security requirements of the Department; documented and maintained as standards, procedures or controlled operational instructions which are provided to the Department; and
- (i) implement all changes to the environment in accordance with Change Management.

10.5 Incident Management

10.5.1 The Supplier must:

- (a) perform Incident resolution activities to restore normal delivery of the Services in compliance with the Service Levels;
- (b) proactively monitor the environment for incidents and undertaking steps to investigate, diagnose, limit and/or mitigate identified or suspected incidents, this includes implementing effective workarounds to support the continuation of business;
- (c) where the Department's ICT reasonably appears to be contributing to the incident, proactively and promptly report all incidents and issues identified via automated or manual monitoring performed by the Supplier to the Department's Service Desk in accordance with the Service Levels, including escalation to the Supplier and/or the Department's management;
- (d) resolve or recover Incidents arising from or related to the Services;
- (e) monitor, track and manage all Incidents escalated to the Supplier's Security Support arising from or relating to the Services until they are closed, including Incidents whose cause is unclear. Incidents shall not be considered closed until an Authorised User confirms that the Incident has been resolved;
- (f) generate a Problem Ticket from an Incident and coordinate the root cause analysis and event correlation for all problems.
- (g) identify preventive measures and/or coordinate resolution of Problems for those Problems underlying the Incidents covered by this clause 10.5.1, including recording all information on the details and corrective actions of the Incident.

10.6 Patch Management

10.6.1 The Supplier must:

- (a) provide notice to the Department of all High Impact Patches by the relevant supplier, as they become available;
- (b) provide recommendations to the Department in relation to the need, timing and implications of implementing/not implementing patches as they become available;

- (c) implement all patches in accordance with the recommendations and timing approved by the Department;
- (d) monitor and regularly report to the Department on the impact of implementing/not implementing patches; and
- (e) for each High Impact Patch:
 - (i) within 10 Business Days after the announcement by the supplier, the Supplier must provide advice to the Department on:
 - (1) details of the patch;
 - (2) impact of implementing/not implementing the patch; and
 - (3) options for when to implement the patch; and
 - (ii) if the patch is agreed to be implemented, implement the patch in accordance with Change Management and the timeframe agreed with the Department.

10.7 Refresh, Upgrade and Software Currency

10.7.1 The Supplier must:

- (a) ensure all Software including Operating System Software is at either the N release level or N-1 release level, unless otherwise agreed by the Department.
- (b) upgrade all Software including Operating System Software to the N release level no later than 12 Months after the release of the N release level of the Software, unless otherwise agreed by the Department

10.8 Monitoring

10.8.1 The Supplier must:

- (a) collect and store all System audit logs regarding the Services;
- (b) retain System audit logs for the life of the Agreement and Exit Period;
- (c) provide copies of all System logs to the Department on a weekly basis;
- (d) provide access to the Department and the Department's nominated third parties to all audit logs regarding the Services including access for the Department's tools that may store, interrogate or monitor the audit logs.
- (e) install, maintain, operate, and upgrade, as necessary, automated monitoring tools to monitor system security and check for identified or potential problems;
- (f) provide read only access to installed automated monitoring tools to nominated Department Personnel; and
- (g) monitor security events, including working with the Department to identify potential issues caused by inappropriate or unauthorised access or modifications, and recommending modifications to security

configurations for improved compliance with policy or to minimise harm to the Department's environment, where achievable.

10.9 Reporting

10.9.1 The Supplier must provide a monthly Report in a format agreed with the Department that includes, at a minimum:

- (a) a summary of security issues that may potentially impact on the Services in the next Month, the next 6 Months and the next 12 Months; and
- (b) trend analysis of all events reported during the 6 most recent Months, summarising current events and trends in both a summary, easy-to-understand graphical representation and detailed reports.

10.10 Compliance

10.10.1 The Supplier must:

- (a) maintain a secure, Software library that holds the master copy, and associated Documentation, of all Software used in the delivery of the Services;
- (b) maintain an up to date suite of security artefacts and documentation for all Services;
- (c) undertake a security audit of the Services, at least once a year or following a major Change or Event as directed by the Department, including all associated Equipment and Software that directly links to the Services, using a registered I-RAP assessor, agreed to by the Department and following the guidelines contained in the I-RAP System Review Guidelines and Checklist;
- (d) develop an agreed Security Remediation Plan and implement the Plan to rectify any deficiencies found in the security audit, and reporting any non-compliance or issues to the Department IT Security Adviser on the status of the implementation of the Plan;
- (e) provide the Department with evidence supporting the findings of all annual audits, recommendations and Security Remediation Plans, with all security audits and compliance reports to be evidence based; and
- (f) cooperate fully with the Department during any security audit which the Department may at any time and without notice, undertake on the Services provided by the Supplier.

10.10.2 The Supplier must provide an Annual Security Compliance Statement each year on or before the anniversary of the Effective Date confirming:

- (a) all Services are being delivered in accordance with the Australian Government PSPF and ISM and the Department's security policies. This explicitly includes verification of the correct disposal of any decommissioned assets;
- (b) the annual security audits have been completed, reports provided to the Department and any required Security Remediation Plans developed and signed off by the Department;

- (c) all Authorised Personnel have the appropriate security clearances and qualifications; and
- (d) where any of items (a) to (c) of this clause 10.10.2 have not been achieved, the non-compliance is documented in the Security Compliance Statement including what actions were taken to mitigate and address that non-compliance.

11. CYBER SECURITY REQUIREMENTS – DEPARTMENT PROVIDED SYSTEMS

11.1 Notwithstanding any other security requirements within the Agreement, any Authorised Personnel that require non-public access to the Department systems must:

11.1.1 hold a current Employment Suitability Clearance (ESC); and

11.1.2 hold a current Commonwealth Security Clearance (CSC) to the appropriate level;

before accessing such systems.

11.2 Incident Management

11.2.1 The Supplier must:

- (a) proactively and promptly report all incidents and issues identified via automated or manual monitoring performed by the Supplier to the Department's Service Desk in accordance with the Service Levels, including escalation to the Supplier and/or the Department's management;
- (b) monitor, track and manage all incidents reported by the Supplier relating to the Department provided systems until they are closed, including incidents whose cause is unclear;
- (c) using the Department's existing incident management process wherever possible to report and monitor Department provided systems incidents; and
- (d) identify preventive measures and/or coordinate resolution of Problems for those Problems where the Supplier is assigned the role of "Case Manager" including recording all information on the details and corrective actions of the incident.

12. SECURITY INCIDENTS

12.1 The Supplier must immediately report to the relevant the Department Representative all Security Incidents of which the Supplier becomes aware, including any security concerns of the Supplier or unresolved security issues, acting in accordance with its obligations under the Agreement.

12.2 In addition to the Supplier's reporting obligation under Section 12.1, if a Security Incident occurs, the Supplier must carry out an immediate investigation into the incident and initiate corrective actions to minimise re-occurrence. The Supplier must also prepare and retain (for a reasonable period of time) documentation of the investigation of the Security Incident and provide a copy to the Department Representative.

12.3 The Department may choose to investigate any or all Security Incidents, security concerns or unresolved security issues or refer incidents to the Police and others as required.

13. INSPECTION

13.1 Without limiting the Agreement Terms and Conditions, the Department has the right to inspect and audit any and all security aspects of the Supplier's operation in accordance with the Agreement in order to verify compliance with the Commonwealth's and the Department's Security Policy and Standards and this Schedule 3 (**Security**), including attending the Supplier Facilities to inspect the physical security standards and measures in place.

SCHEDULE 4
TRANSITION MANAGEMENT

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TRANSITION MANAGEMENT**1. INTRODUCTION**

1.1 This Schedule 4 (**Transition Management**) sets out the principles which will govern the Transition elements of the Supplier's Solution required to:

1.1.1 commence Transition In of the Services on and from the Effective Date;

1.1.2 s47C

1.1.3 Transition out of the Services at the end of the Term.

1.2 Included elements comprise all operational and administrative project management functions associated with the transitioning of any and all services to either enable, change charging arrangements or discontinue business as usual (BAU) services as approved by the Department.

1.3 Excluded elements are those operational and administrative project management functions not directly related to the transitioning in, changing charging arrangements or transitioning (exit) out of any services and any other activities not approved by the Department in the Supplier's formal Transition Plan.

1.4 In this Schedule 4 (**Transition Management**) unless the contrary intention appears, each capitalised term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

1.5 This Schedule 4 (**Transition Management**) comprises of three main parts, namely:

- **Part A** which sets out the **Transition Requirements** for the **Transition In** for the commencement of any and all, new services and arrangements s47C
- **Part B** which sets out the **Transition Out (Exit) Requirements** for the exiting out of current services and arrangements; and
- The **Annexures** supporting this Schedule 4 (**Transition Management**).

1.6 The Transition activities are designed to:

1.6.1 ensure the Supplier has overall responsibility for planning, executing and reporting the Transition solution(s) to meet the Department's Services Requirements;

1.6.2 achieve the smooth, effective, efficient and economical transition of the Services to or from the Supplier or to change charging arrangements;

1.6.3 ensure minimal disruption to the Department operations and to the Services provided to Clients; and

1.6.4 take into account the Department's operational and resource constraints.

2. PRINCIPLES

2.1 The following principles are to be considered in the planning and execution of Transition activities:

- 2.1.1 Avoid service degradation
- 2.1.2 Minimise time to competency whilst maintaining quality
- 2.1.3 Risk is not transferred to the Department
- 2.1.4 Demonstrate understanding of the Department's operating and legal environment
- 2.1.5 Clearly articulate support requirements
- 2.1.6 Transition is to be implementable by the Department
- 2.1.7 Plan for a phased transition

3. SHARING OF BEST PRACTICES, KNOWLEDGE AND EXISTING EXPERIENCE

3.1 The Supplier is to make use of best practice, knowledge and existing experience to facilitate the smooth and effective Transition of Services.

PART A – TRANSITION REQUIREMENTS

3.2 These Transition Requirements apply to the Transition In s47C

3.3 The Supplier's Responsibilities

3.3.1 The Supplier will have overall responsibility for planning and executing the Transitions solutions including:

- (a) appointing a Transition Manager for the Transitions activities. In particular, the Supplier will adopt the following operational scheme:
 - i. The Supplier's obligations and delivery of Services will be closely monitored by the Contract Manager (in accordance with Schedule 7 (**Governance**) to ensure that the Supplier adheres to its commitments.
 - ii. The Supplier's Transition Manager is the Supplier's Representative in charge of business operations and projects, and will have overall responsibility for finalising the Transitions programme activities in accordance with Section 1.6.
 - iii. Transition coordination will be managed by the Supplier. The Transition Manager will provide the Department with weekly progress reports throughout the Transition phase, unless the parties agree to more frequent progress reports. The Supplier will appoint personnel trained and experienced in project management techniques to the Transition Manager. The Supplier's Transition Manager will regularly liaise with the Contract Manager.

- iv. The Transition Manager is responsible for the success of the transition, ensuring all Services set out in the Agreement are delivered on the Transition Milestone Dates and are operating as specified and without failures or issues.
 - v. The Transition Manager will have experience in the Supplier's incumbent operations and experience in transitioning using a recognised project management methodology (such as PRINCE 2, PMBOK, etc).
 - vi. The Transition Manager will be assisted by the Supplier's corporate office. The selected corporate office staff will have gathered experience in the Supplier's incumbent operations to ensure that known and trusted Supplier Personnel are in charge. Supplier Personnel will be relocated locally to the transition activity as required, to assist or support the Transition.
 - vii. The Transition Manager will supervise and support the following activities:
 - acquisition and set up of infrastructure;
 - set up of IT systems;
 - recruitment, vetting and training of staff;
 - onsite support during the critical rollout phase; and
 - debugging of systems and processes based on field experience during the rollout.
 - viii. A representative from the Supplier will be based in the local area throughout the Transition Period, and will continue after the Transition Period for two (2) weeks and until the complete stabilisation of systems and processes is achieved.
- (b) providing transition coordination and support to the Contract Manager for the purposes of the Contract Manager meeting the Department's requirements;
- (c) successfully delivering the key Transitions deliverables listed below:
- i. compliance with the provisions set out in this Schedule 4 (**Transition Management**);
 - ii. management and monitoring of all aspects of the Transitions including timelines, adherence to standards, and quality control;
 - iii. providing regular Transitions reports and updates on the status of Transition;
 - iv. facilitation of:
 - (i) a rapid and concise risk and issue decision-making process; and

- (ii) coordination with the Department of mitigation or treatment measures
- during the entire Transitions phases;
- v. identification of roles and responsibilities referring to the monitoring of risks and the resolution of issues; and
- vi. management and reporting of internal and external dependencies during the Transitions.
- (d) identifying and actively managing, to seek to eliminate, business and technical issues and risks that may affect the Transitions;
- (e) fulfilling its security obligations at all times in accordance with Schedule 3 (**Security**); and
- (f) meeting the Service Levels and Service Credits in accordance with Schedule 6 (**Service Levels and Service Credits**).
- 3.3.2 The Supplier is to execute the Transitions in accordance with the approved Transition Plans and this Schedule 4 (**Transition Management**).
- 3.3.3 The Supplier is to provide Transition coordination and support to the Contract Manager including:
 - (a) providing the Contract Manager with a regular and timely progress report throughout the Transitions phases; and
 - (b) appointing personnel trained and experienced in project management techniques to assist the Contract Manager.

4. TRANSITION IN PLAN

4.1 Transition In Plan

- 4.1.1 The Supplier's Transition In Plan will set out the generic methodology and the overall plan to be implemented by the Supplier to achieve successful Transition In. It will describe the high-level principles, activities, deliverables and Milestones required for a successful Transition and to meet the Transition In Schedule. The Transition In Plan will also identify the party responsible for delivering or meeting such activities, deliverables and Milestones.
- 4.1.2 If, through the Change Control Procedure the parties agree to a New Service, the Supplier will follow the Transition In Plan for the introduction of such a New Service.
- 4.1.3 Any changes to the Transition In Plan after the Effective Date will be agreed by the parties through the Change Control Procedure.

4.2 Transition In Schedule

- 4.2.1 The Supplier's Transition In Schedule will set out a list of Go-Live Dates for each Service or Business Requirement that it is being established and/or

managed under the Agreement. Changes to the Transition In Schedule will be agreed by the parties through the Change Control Procedure.

- 4.2.2 The Supplier will ensure that all Transition activities are completed and the Readiness Criteria are met for each Service or Business Requirement (as appropriate) by the relevant Go-Live Date or as otherwise agreed by the parties through the Change Control Procedure.

s47C



s47C

PART B – TRANSITION OUT (EXIT) REQUIREMENTS**6. INTRODUCTION**

- 6.1 The objective of the Transition Out Plan is to facilitate the smooth exit of the Supplier from Service delivery and transfer of the Services Requirements to a Successor Supplier (if any), in the circumstances set out in Section 6.3, in a way that preserves business continuity for the Department.
- 6.2 This Part B (**Transition Out (Exit) Requirements**) sets out the process by which the Supplier is to provide Exit Assistance in respect of Removed Services, including where they are to be provided through a third party or by the Department itself or any other Agency of the Commonwealth.
- 6.3 The Supplier is to provide the Exit Assistance set out in this Part B (**Transition Out (Exit) Requirements**) and the Transition Out Plan commencing from the following dates:
- 6.3.1 following a successful Procurement Process in relation to any of the Services Requirements, from the date specified in the notice from the Department to the Supplier notifying the Supplier;
 - 6.3.2 if one party has served notice of Termination in accordance with **Clause 42** of the **Terms and Conditions**, from the date specified in the notice;
 - 6.3.3 in the case of the expiry of the Agreement, the date six (6) months prior to the Expiration Date
 - 6.3.4 where, pursuant to any right under the Agreement or at Law, the Department provides notice to the Supplier as is required to remove any Services Requirements from the scope of the Agreement (whether following a Procurement Process or otherwise), from the date on which the Supplier received such notice; or
- (each or all of the above effective dates are known as the “**Exit Assistance Commencement Date**”), and ending on
- 6.3.5 a date that is six (6) months after Termination Date of the Agreement unless another date is agreed by the parties.
- 6.4 The Supplier is to comply with the Department’s approved Transition Out Plan from the applicable Exit Assistance Commencement Date until the Services Transfer Date or the date of removal of the particular Services, as applicable.
- 6.5 Notwithstanding the generality of Section 6.6, at the Department’s request, the Supplier is to continue to comply with its obligations under the Transition Out Plan for up to three (3) months, or such longer period that is mutually agreed to transfer the

relevant Removed Services to a Successor Supplier, following the Termination Date or date of removal of the Services (as the case may be).

6.6 The parties agree and acknowledge that this Schedule 4 (**Transition Management**) will continue in full force and effect notwithstanding the Termination of the Agreement.

6.7 Without limiting the Department's rights under the Agreement, the Supplier will continue to be entitled to receive Service Charges ^{s47C}

7. SUPPORT FOR A PROCUREMENT PROCESS

7.1 In the case of a Procurement Process, the Supplier is to assist and support the Department with the Procurement Process from the Exit Assistance Commencement Date in accordance with this Schedule 4 (**Transition Management**) and Annex 4-2.

8. ASSISTANCE PRIOR TO TRANSFER OF THE SERVICES

8.1 The Supplier agrees to continue to provide the Services, and to assist with exit management and exit assistance during the Exit Period, in accordance with this Schedule 4 (**Transition Management**) and Annex 4-4.

9. ASSISTANCE ON TERMINATION

9.1 If the Department appoints a Successor Supplier, (including any in-house team), other than the current Supplier, to fulfil the Services Requirements then, with effect from the Services Transfer Date, the Supplier is to provide exit assistance to the Department and the Successor Supplier in accordance with this Schedule 4 (**Transition Management**) and the Transition Out Plan.

10. TRANSITION OUT PLAN

10.1 During the Transition In Period the Supplier is to update the Transition Out Plan for Department approval. The updated Transition Out Plan is to be substantially the same as the draft Transition Out Plan as tendered (unless otherwise agreed).

10.2 The parties will review and update the Transition Out Plan, subject to the Department's approval:

10.2.1 initially within six (6) months after the Effective Date; and

10.2.2 annually thereafter, on the anniversary of the first review conducted in accordance with Section 10.2.1, to ensure that it remains relevant as the Supplier's Solution develops and to reflect changes to the Services Requirements.

10.3 Whenever either party decides that changes are required to the Transition Out Plan, they will discuss, and agree pursuant to Schedule 8 (**Change Control**) a new document that replaces the current Transition Out Plan.

10.4 Unless otherwise agreed by the Department, the Transition Out Plan relates to the following general activities:

10.4.1 production and updating of the initial Transition Out Plan to include, as a minimum, the elements specified in this Schedule 4 (**Transition**

Management). This activity is anticipated to support any Procurement Process and potential Successor Supplier due diligence activities; and

10.4.2 updating and reviewing of the Transition Out Plan, in accordance with Section 10.2 above, and there will be the following two (2) phases as a minimum:

- (a) phase 1 of implementation activity, triggered by the need for transfer, is anticipated to be due diligence and transition planning activity to be carried out by the Successor Supplier within the period leading up to the Services Transfer Date, including staggered transfer of required business knowledge; and
- (b) phase 2 of implementation which will be mainly concerned with support to the Successor Supplier in the actual transitioning of the Supplier's Solution.

11. TRANSITION OUT SCHEDULE

11.1 Transition Out Schedule

11.1.1 The Supplier's Transition Out Schedule will set out a list of Go-Live Dates for the Successor Supplier for each Service or Business Requirement that it is being established and/or managed under the Agreement. Changes to the Transition In Schedule will be agreed by the parties through the Change Control Procedure.

11.1.2 The Supplier will ensure that all Transition activities are completed and the Readiness Criteria are met for each Service or Business Requirement (as appropriate) by the relevant Go-Live Date or as otherwise agreed by the parties through the Change Control Procedure.

12. ORDINARY COURSE OF BUSINESS

12.1 Throughout any Procurement Process and/or Exit Period, the Supplier is to:

- 12.1.1 not embark on any actions related to the Services Requirements that fall outside the Ordinary Course of Business, without the Department's prior written consent;
- 12.1.2 continue to devote such time and resources to the continued fulfilment of the Services Requirements, so as to ensure that there is no disruption to the Services Requirements and no reduction in the Supplier's performance of the Services in accordance with the Service Levels and Service Credits;
- 12.1.3 promptly notify the Department of any act, omission or conduct which adversely affects the Assets or Supplier Personnel or Supplier Subcontractors required to deliver any part of the Services Requirements during and after the Term; and
- 12.1.4 take active steps as reasonable to monitor the Supplier Personnel and Supplier Subcontractors to ensure there is no degradation in the quality of the Supplier's Solution.

13. EXIT CHARGES FOR EXIT ASSISTANCE**13.1 Exit Assistance before the Services Transfer Date**

13.1.1 The Supplier is to, so far as is reasonably practicable, and unless otherwise agreed in the Transition Out Plan, provide the Exit Assistance described in this Schedule 4 (**Transition Management**) from the Exit Assistance Effective Date to the Services Transfer Date using existing Supplier Personnel at no cost to the Department, ^{s47C}

13.1.2 If it is not reasonably practicable to provide the Exit Assistance using existing Supplier Personnel without degradation to the Supplier's fulfilment of the Services Requirements or achievement of the Service Levels and Service Credits or without incurring additional costs, the Supplier is to notify the Department and the parties will discuss a relaxation or waiver of certain Services Requirements or Service Levels and Service Credits to release Supplier Personnel to perform such Exit Assistance.

13.1.3 Notwithstanding Sections 13.1.1 and 13.1.2, the Supplier is responsible for ensuring it has sufficient Supplier Personnel to provide the Exit Assistance described in this Schedule 4 (**Transition Management**) and to deliver the Services in accordance with the Service Levels and Service Credits from the Exit Assistance Effective Date to the Services Transfer Date.

14. TRANSITION GOVERNANCE

14.1 The parties agree that the governance framework set out in this Section 14 is established with the aim of ensuring that each party is able to work towards the common goal of effective and timely completion of Transition. The governance framework set out in this Section 14 is designed to achieve the following:

- adherence to the provisions of this Schedule 4 (**Transition Management**);
- limitation of risk inherent within the performance and receipt of the Transition Plan within mutually acceptable levels;
- management and monitoring of all aspects of Transition;
- facilitation of a rapid and concise decision making process during Transition; and
- implementation of the Department approved Transition Plans on time and to the appropriate levels of quality.

14.2 Each party agrees to use all reasonable endeavours and resources to achieve the common goal outlined in Section 14.1 above.

14.3 The parties agree that the Delivery Management Meeting will be the appropriate forum in which to agree changes to the Transition activities, the Transition Plan and the overall Readiness Criteria, and to manage the process of governing compliance with the Department approved Transition Plan including monitoring progress of meeting Milestone dates.

14.4 In the period before the Go-Live Date for each Business Requirement, the Department will review and sign-off the Supplier's progress against the Transition Milestone Dates which will include:

- progress and completion of the Milestones in accordance with Annex 4-1 (**Transition Plans**);
- the location and facilities to meet the requirements in Schedule 10 (**Facilities**) and Schedule 3 (**Security**);
- completion of the IT solution; and
- readiness of the Supplier Personnel providing Services.

15. READINESS AND COMPLETION CRITERIA

- 15.1 Readiness and Completion Criteria against which the completion of any Transition activity, the provision of any deliverable or the achievement of any milestone will be measured throughout the Transition Period are described in the Transition Plans in Annex 4-1.
- 15.2 For each Business Requirement, the Supplier is to demonstrate to the Department's reasonable satisfaction that:
- it has met the relevant Readiness Criteria for Go-Live and has demonstrated that it is ready to assume the fulfilment of the Services Requirement for the relevant Business Requirement by the Go-Live Date, in which case the Department will sign the relevant Go-Live Readiness Certificate; and
 - during the Start-Up Period, it has demonstrated its ability to fulfil the Services Requirements for the relevant Business Requirement and has met the relevant Readiness Criteria for any post-Effective Date Transition activities (which may include an agreed list of minor deficiencies). In which case, the Department will sign the relevant Transition Acceptance Certificate and Transition for that Business Requirement will be deemed completed.
- 15.3 The Supplier will use Commercially Reasonable efforts to ensure that the Start-Up Period is kept as short as possible and, in no event, will the Start-Up Period exceed 4 (four) weeks.
- 15.4 The Supplier will also use Commercially Reasonable efforts to ensure that the Exit Period is undertaken in keeping with the Department approved Transition Out Plan.
- 15.5 Each Transition will be deemed to be complete when the Department signs a final Transition Acceptance Certificate to acknowledge that all Transition activities have been completed and all relevant Transition Acceptance Certificates have been signed.

16. FAILURE TO MEET TRANSITION MILESTONE DATES

- 16.1 Subject to **Clause 44** of the **Terms and Conditions**, if the Supplier's failure to meet a Transition Milestone Date gives the Department reasonable grounds to consider that the Supplier will fail to meet a Go-Live/Completion Date, the Department may, at the Supplier's cost, take reasonable steps to mitigate against the risk of the Supplier failing to meet such Go-Live/Completion Date.

17. REPORTING

- 17.1 Reporting is to be undertaken in accordance with Schedule 11 (**Reporting**) and in keeping with all the Department approved Transition Requirements and checklists set out in this Schedule 4 (**Transition Management**).

- 17.2 The Supplier will provide the Department with a Lessons Learned report at the completion of the Transition. The Lessons Learned report should outline the requirements set out in Schedule 11 (**Reporting**).

ANNEX 4-1**TRANSITION PLANS****1. INTRODUCTION**

1.1 The Supplier is committed to following the principles, activities, deliverables and milestones set out in the Transition Plans in this Annex 4-1.

1.2 Attach the negotiated Transition Plans from the Request for Tender here.

ANNEX 4-2**ASSISTANCE WITH A PROCUREMENT PROCESS****1. GENERAL CO-OPERATION DURING THE PROCUREMENT PROCESS**

- 1.1 Whenever it is notified that the Department is going to undertake a Procurement Process for the Services Requirements or any part of the Services Requirements by way of a Procurement Process, the Supplier is to fully co-operate with the Procurement Process.
- 1.2 Subject always to Section 7.3 of this Annex 4-2, with effect from the Exit Assistance Commencement Date of the Procurement Process until the Services Transfer Date, the Supplier is to provide to the Department such Information and other co-operation regarding the Supplier's fulfilment of the Services Requirements (as and when reasonably requested by the Department unless otherwise specified in this Annex 4-2) as would be reasonably necessary for a third party to:
- 1.2.1 prepare an informed, non-qualified offer for those Services Requirements; and
 - 1.2.2 not be disadvantaged in the Procurement Process compared to the Supplier (if the Supplier is participating in the Procurement Process) in respect of access to information regarding the Services Requirements.
- 1.3 Where used in this Schedule 4 (**Transition Management**), "Information" means any written or oral information (including information for the Department's due diligence purposes) which is material in detail or in substance and which describes the nature of any of the Services Requirements provided to the Department or the method by which those Services Requirements are provided by the Supplier.
- 1.4 With effect from the date on which the Department publishes official notice of the Procurement Process on the Commonwealth's AusTender website (or equivalent) at <http://www.austender.gov.au>, or with effect from the date on which the Supplier notifies the Department of an intention to bid pursuant to the Procurement Process (whichever is the earlier), the Supplier is to, so far as reasonably practicable, ensure that no individual who participates in its operations team is also a member of (nor is transferred into) its bid team in respect of the services covered by the Procurement Process. The Supplier is to notify the Department if it is not reasonably practicable to maintain such an ethical wall between its operations team and its bid team and the Department will not unreasonably withhold its consent to a reasonable request from the Supplier to waive such requirement.

2. SUPPLIER PERSONNEL

- 2.1 No later than fifteen (15) Business Days after receipt of a written request from the Department, the Supplier is to provide the Department with a list by Location of job titles, job descriptions and a figure representing the total staffing costs in respect of the Supplier Personnel which, as at that date, are assigned to the fulfilment of the Services Requirements, or any part of the Services Requirements. The Supplier is to thereafter, upon reasonable request provide the Department with an updated list. If an Acquired Rights Directive is in force in the relevant Location, the list is to also identify the following categories of job titles, skills, job descriptions, positions and the Location where they work:

- 2.1.1 those which are assigned to the Services Requirements on a full-time basis; and
 - 2.1.2 those which are assigned to the Services Requirements on a shared basis to the extent to which shared personnel work on the Department's account.
- 2.2 The parties agree that Information provided pursuant to Section 2.1 of this Annex 4-2 will be provided in compliance with the applicable data protection or privacy legislation and, at a minimum, be broken down by reference to organisational groupings and full-time equivalent positions and other relevant detailed information reasonably required by a third party to make an unqualified bid to provide services that are required to fulfil requirements similar to the Services Requirements.

3. SUPPLIER SUBCONTRACTS

- 3.1 Within one (1) month after the Exit Assistance Commencement Date, the Supplier is to provide the Department with an up-to-date list of the Supplier Subcontractors. With effect from the Exit Assistance Commencement Date, the Supplier is to notify the Department of any material changes to the Supplier Subcontracts which may adversely impact the fulfilment of any of the Services Requirements and is to consult with the Department regarding such proposed material changes.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 **Clause 28** of the **Terms and Conditions** apply.
- 4.2 The Supplier is to provide the inventory to be developed under **Clause 28.9** of the **Terms and Conditions** list within one (1) month after the Exit Assistance Commencement Date for the Procurement Process.

5. ASSETS

- 5.1 The Supplier shall provide a complete list of Assets used in the fulfilment of the Services Requirements, as maintained in accordance with Clause 20 of the Terms and Conditions, to the Department within one (1) month of the Exit Assistance Commencement Date for the Procurement Process.
- 5.2 The parties shall agree the level of detail and content to be provided by the Supplier in connection with the list referred to in Section 5.1 of this Annex 4-2. Notwithstanding the foregoing, the parties agree that the list shall include the Department's Assets.

6. PREMISES

- 6.1 The Supplier is to maintain a list of the Service Centre locations used in the fulfilment of the Services Requirements. The Supplier is to provide the Department with such list no later than two (2) months after the receipt of a written request from the Department in connection with the Procurement Process.
- 6.2 The parties will agree the level of detail and content to be provided by the Supplier in connection with the list referred to in Section 6.1 above. Notwithstanding the generality of the foregoing, the parties agree that the list will include:
- 6.2.1 the address of the Service Centre;
 - 6.2.2 a brief description of the location;

- 6.2.3 details of the security arrangements for the Service Centre;
 - 6.2.4 the nature and amount of accommodation used in connection with the Services Requirements;
 - 6.2.5 the type of work carried out at the location; and
 - 6.2.6 the hours of operation.
- 6.3 As part of the Supplier's Transition Out Plan and subject to the Successor Supplier complying with the Supplier's reasonable security and confidentiality requirements, the Supplier is to permit the Successor Supplier to access, and use such accommodation to the extent necessary to transfer the applicable Services Requirements.

7. USE OF SERVICES INFORMATION

- 7.1 The lists and information to be compiled and provided pursuant to Sections 2 to 5 of this Annex 4-2 as well as any information obtained during the Term, including volumes, Service Level and Service Credit information, system information and the relevant documentation, may be used by the Department to develop its procurement documentation for the Procurement Process including, in particular, to develop its services requirements against which potential Successor Suppliers may bid for the Removed Services.
- 7.2 Subject to Section 7.3 below and to appropriate confidentiality undertakings being given and put in place by any potential Successor Supplier, the Department may disclose to a potential Successor Supplier such information relating to the total staff numbers and staffing costs by Location, facilities and Supplier Subcontracts used by the Supplier to fulfil the Services Requirements.
- 7.3 Nothing in this Annex 4-2 permits the Department to disclose to Potential Suppliers any of the Supplier's Confidential Information relating to the manner in which, or the methods it uses to fulfil the Services Requirements, including but not limited to its business processes and practices, know-how, ideas, designs, specifications, research, current and future products and services, internal management information, marketing plans and techniques.

8. DISPUTES

- 8.1 During any Procurement Process, the Supplier is to maintain and update a list of on-going and/or threatened disputes with third parties in relation to the Supplier's Solution and/or Supplier Subcontracts, and is to use Commercially Reasonable Efforts to resolve such disputes.

ANNEX 4-3**ASSISTANCE IN THE PERIOD PRIOR TO THE TERMINATION DATE****1. INTRODUCTION**

- 1.1 This Annex 4-3 sets out the Exit Assistance to be provided by the Supplier from the Exit Assistance Commencement Date to the Services Transfer Date if there is a Termination or a Services Removal.
- 1.2 The Supplier is to use its Commercially Reasonable Efforts to minimise the Department's costs (if any) and management time resulting from any Termination or Services Removal (as the case may be) and to minimise the implementation time for the agreed Transition Out Plan and/or Services Transition Plan.

2. TRANSITION OUT PLAN

- 2.1 Within ten (10) Business Days after the applicable Exit Assistance Commencement Date, or such other time agreed in writing by the parties, the Supplier is to provide the Department with an updated Transition Out Plan.
- 2.2 The Department will respond within five (5) Business Days with its comments on the updated Transition Out Plan.
- 2.3 The Supplier is to respond to any of the Department's suggestions to improve or amend the draft Transition Out Plan within five (5) Business Days after receipt of the same. Unless otherwise agreed, within twenty (20) Business Days after the Exit Assistance Commencement Date, the parties will meet to discuss and agree the final form of the Transition Out Plan.
- 2.4 The parties will review and update the Transition Out Plan quarterly throughout the Exit Period, on the rolling tri-monthly anniversary of the Exit Assistance Commencement Date, to ensure that it remains relevant.
- 2.5 On the appointment of a Successor Supplier (if any), the Supplier is to participate in discussions with the Department and, if applicable, the Successor Supplier concerning an alignment of the Transition Out Plan and the Successor Supplier's Services Transition Plan, with a view to the Successor Supplier Services Transition Plan being agreed and finalised at least six (6) months prior to the Termination Date.
- 2.6 The final form of the Successor Supplier Services Transition Plan is to be agreed after consultation between the Department and the Successor Supplier and Supplier. The Supplier will make such adjustments to the Transition Out Plan as are necessary to align with and support the Successor Supplier Services Transition Plan.

3. GENERAL EXIT ASSISTANCE

- 3.1 Both parties will comply fully with their obligations under the Transition Out Plan and this Schedule 4 (**Transition Management**).
- 3.2 Both parties will appoint a suitable representative ("**Exit Manager**") to manage the exit process on a day-to-day basis. The appointment of the Supplier's Exit Manager is subject to the Department's prior approval (which approval will not be unreasonably withheld).

- 3.3 The Supplier's Exit Assistance may include training for the Department and/or the Successor Supplier personnel, consultants or subcontractors, as agreed.
- 3.4 If the Supplier fails to comply with any of its obligations with respect to the Transition Out Plan, it is to arrange (at its own cost) all such additional resources as are necessary to fulfil the applicable obligation as soon as reasonably practicable.
- 3.5 Unless otherwise agreed, the Supplier is responsible for the overall management of all the exit activities envisaged in this Schedule 4 (**Transition Management**) and the Supplier is to:
- 3.5.1 keep the tasks on schedule in accordance with any timetable set out in the Transition Out Plan; and
 - 3.5.2 identify and resolve, or assist the Department and the Successor Supplier in the identification and resolution of, any problems encountered in the timely completion of each task identified in the Transition Out Plan, whether the task is the responsibility of the Supplier or not.

4. SUCCESSOR SUPPLIER ASSISTANCE

- 4.1 If a person other than the Supplier is appointed as a Successor Supplier, the Supplier agrees to reasonably co-operate with the Department and the Successor Supplier, as directed by the Department, in relation to arrangements to effect a smooth transfer of knowledge and skills of the Services Requirements and any Transferring Personnel. Such co-operation includes reasonably assisting the Successor Supplier to familiarise itself as to the method of fulfilment of those Services Requirements in the six (6) month period prior to the expiry of the Agreement. In particular, the Supplier agrees that it will allow the Successor Supplier reasonable access to its facilities used to fulfil the Services Requirements so that the Department and/or the Successor Supplier, as directed by the Department, can observe the fulfilment of the relevant Services Requirements and prepare for the transfer of the Services Requirements from the Supplier. Subject to compliance by the Department and the Successor Supplier with any applicable security restrictions and confidentiality undertakings being put in place.
- 4.2 During the period referenced in Section 4.1, the Supplier agrees to ensure knowledge transfer from the Supplier (excluding any Supplier Material) to the Department and/or Successor Supplier, as directed by the Department, occurs as early as possible.
- 4.3 Subject to Section 13.1 of this Schedule 4 (**Transition Management**), the Supplier is to make available to the extent that it does not impact upon the fulfilment of the Service Requirements, suitably experienced and skilled Supplier Personnel for such time as is reasonably necessary during the Exit Period, to explain relevant procedures and operations (including management processes and other standards and procedures, but excluding Supplier Material) to the operations personnel of the Department and/or Successor Supplier, as directed by the Department.
- 4.4 The information and assistance which the Supplier provides to the Department and/or Successor Supplier, as directed by the Department, under Section 3.5 of this Annex 4-3 is subject to all confidentiality obligations or licence restrictions to which the Department is subject under the Agreement, including Section 7 of Annex 4-2 but, as a minimum, includes:

- 4.4.1 information about current project work for which the Department or a Successor Supplier will assume responsibility after the Termination Date;
- 4.4.2 copies of those Supplier Subcontracts (if any) which are to be transferred to the Successor Supplier; and
- 4.4.3 information regarding unresolved faults in the Supplier's Solution in progress at the commencement of the Exit Assistance as well as those expected to be in progress at the Services Transfer Date.

This information is to be updated by the Supplier at the Services Transfer Date.

- 4.5 After the appointment of the Successor Supplier, the Department may be accompanied by the Successor Supplier at project meetings with the Supplier regarding the fulfilment of the Services. The Supplier is to also consult the Department (and allow the Department to involve the Successor Supplier) about planned changes to the fulfilment of any of the Services Requirements.
- 4.6 The Supplier is to perform all Exit Assistance services as required in the Agreement, including under this Section 4 of Annex 4-3 of Schedule 4 (**Transition Management**) at no cost to either the Department or the Successor Supplier unless agreed to in writing between the Department and the Supplier.

5. SECURITY

- 5.1 The Supplier is to continue to comply with its security obligations in accordance with Schedule 3 (**Security**) in carrying out its obligations under this Schedule 4 (**Transition Management**).

ANNEX 4-4

TERMINATION AND TRANSFER TO THE SUCCESSOR SUPPLIER

1. INTRODUCTION

- 1.1 This Annex 4-4 sets out the Exit Assistance to be provided by the Supplier to the Successor Supplier as directed by the Department on and from the Termination Date and during the Exit Period.

2. RESERVED

3. INTELLECTUAL PROPERTY RIGHTS

- 3.1 With effect from the Termination Date or the date of Services Removal, the Supplier is to cease all use of, and return, the Department Software and the Department Materials in accordance with **Clause 28.2.2** of the **Terms and Conditions**.
- 3.2 Upon request from the Department to do so, the Supplier is to confirm in writing that it has complied in full with its obligations under Section 4.1 of this Annex 4-4.

4. REPORTING DURING THE EXIT PERIOD

- 4.1 The Supplier is to provide progress reports detailing the status of the exit tasks as against the Transition Out Plan, setting out any actual or anticipated problems or delays and the actions that the Supplier is taking to resolve such problems, as specified in Schedule 11 (**Reporting**).

5. SUPPLIER SUBCONTRACTS

- 5.1 During the Exit Period and in accordance with the Transition Out Plan, the Supplier is to not vary, terminate, assign, novate, purport to vary, nor allow any of the listed Supplier Subcontracts to expire without the Department's prior written consent, which consent will not be unreasonably withheld.
- 5.2 The Supplier is to provide a list of the Supplier Subcontracts to the Department and/or any Successor Supplier, as directed by the Department, if reasonably requested by the Department during the Exit Period.
- 5.3 The Department will notify to the Supplier which of the Supplier Subcontracts (if any) need to be assigned, novated or otherwise transferred from the Supplier to the Department and/or Successor Supplier (the "Transferring Subcontracts").
- 5.4 The Supplier is to liaise with the relevant Supplier Subcontractors to ensure, as far as it is able, the successful transfer, assignment or novation (as required) of the Transferring Subcontracts, including obtaining any transfer, assignment or novation agreements (as applicable) in a comparable form that is acceptable to the Department.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 Software List

- 6.1.1 The Supplier is to provide the inventory to be developed under **Clause 28.9** of the **Terms and Conditions** within twenty (20) Business Days after commencement of the Exit Period.

6.2 Supplier Software and Material

- 6.2.1 The Supplier is to grant the licence to the Department for Supplier Software and Supplier Material in the circumstances described in, and in accordance with, **Clause 28.3.3** of the **Terms and Conditions**.

6.3 Third Party Software and Material

- 6.3.1 The Department will notify to the Supplier which of the Third Party Software and Third Party Material (if any) it requires to be licensed to itself and/or Successor Supplier after the Termination Date (the "**Transferring IPR**"). The Transferring IPR is to not include any Third Party Software or Third Party Material for which the Department has, pursuant to **Clause 28.4.3** of the **Terms and Conditions**, waived the Supplier's obligation to obtain an IPR Transfer Right.
- 6.3.2 The Supplier is to liaise with the relevant third parties to ensure, as far as it is able, as applicable, the successful:
- (a) transfer, assignment or novation (as required) of the Transferring IPR to the Department or a Successor Supplier, including obtaining any transfer, assignment or novation agreements (as applicable) in a form that is acceptable to the Department; or
 - (b) grant to the Department or a Successor Supplier of a licence for the Transferring IPR on terms substantially similar to the terms of the Supplier's existing licence for such Transferring IPR.
- 6.3.3 Each party will bear its own legal and administrative costs in connection with the transfer of, or the grant of a licence for, the Transferring IPR. If the Department has agreed, pursuant to **Clause 28.4.3** of the **Terms and Conditions**, to waive the requirement for the Supplier to obtain an IPR Transfer Right or has agreed to pay any fee levied by the licensor for such transfer or grant, the Department will pay any fee levied by the licensor in connection with the transfer or grant of the Transferring IPR. In other circumstances where the Supplier has not negotiated an IPR Transfer Right, any fees levied by the licensor in connection with the transfer of the Transferring IPR is to be paid by the Supplier. The Department or the Successor Supplier is to pay the licence fees for the Transferring IPR after the Termination Date.

7. **DISPUTES**

- 7.1 During the Exit Period, the Supplier is to maintain and update a list of on-going and/or threatened disputes with third parties in relation to any of the Supplier's Solution or Supplier Subcontracts, and is to use its Commercially Reasonable Efforts to resolve such disputes.

SCHEDULE 5
PRICING

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PRICING**1. INTRODUCTION**

1.1

s47C [REDACTED]

1.2 In this Schedule 5 (**Pricing**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. OVERVIEW

2.1 Except as otherwise stated below in this Schedule 5 (**Pricing**) or as agreed by the Parties in accordance with the Change Control Procedure, subject to the Agreement, Acceptance of any Services, the Services meeting the Service Levels and the Supplier fulfilling the Service Requirements:

2.1.1 the Department will pay to the Supplier the Service Charges; and

s47C [REDACTED]

in accordance with this Schedule 5 (**Pricing**) at the rate prescribed at Annex 5-1 below.

2.2 This Schedule 5 (**Pricing**) sets out:

2.2.1 the Annual Reviews; and

2.2.2 without limiting clause 12 of the **Terms and Conditions**, the Projected Volumes.

2.3 The cost elements which have formed the basis of the calculation of Service Charges s47C [REDACTED] are based on the version of the Cost Element Spreadsheet provided by the Supplier to the Department on [INSERT DATE OF EXCHANGE]. A high level summary of the cost elements are set out at Annex 5-1 and Annex 5-4. The parties have agreed that the Cost Element Spreadsheet of [INSERT DATE OF EXCHANGE] may be referred to for guidance in any future pricing discussions.

SERVICE CHARGES s47C [REDACTED]**3. ALL COSTS INCLUDED**

3.1 The Supplier acknowledges that the Supplier's costs have been allocated to the various elements of the Service Charges s47C [REDACTED] as set out in Annex 5-4.

3.2 The Supplier further acknowledges that the Service Charges s47C [REDACTED] set out in Annex 5-1:

3.2.1 are Service Charges s47C [REDACTED] expressed in Australian dollars (AUD);

3.2.2 include all the costs, payments and charges of providing the Services;

- 3.2.3 are calculated based on the costs, payments and charges making up the Service Charges ^{s47C} as set out in Annex 5-4; and
- 3.2.4 must be used as the basis for agreeing Changes that result in an adjustment to the Service Charges ^{s47C} during the Term of the Agreement.
- 3.3 Any Changes to the Service Charges ^{s47C} agreed through the Change Control Procedure as a result of a variation in scope or of the Services Requirements will follow the same principles of cost allocation set out in the Cost elements table (Annex 5-4).

4. TRANSITION IN FEE

- 4.1 The Transition In Fee is a separate fee specifically for the purpose of transitioning into the Services. The Supplier will be entitled to payment of the Transition In Fee identified in Annex 5-1 when, and only when, the Transition Milestones Readiness Criteria have been met.

5. SERVICE CHARGE ^{s47C}

5.1 Introduction and Overview

- 5.1.1 The Supplier is entitled to charge the Department a Service Charge ^{s47C} with respect to the provision of the Client Enquiry Services. The Department will notify the Supplier which Services are to be charged as Service Charges ^{s47C} in accordance with clause 13.3 of the **Terms and Conditions**.
- 5.1.2 ^{s47C}
- 5.1.3 The Service Charge ^{s47C} per Client Enquiry Service is set out in Annex 5-1 of this Schedule 5 (**Pricing**).
- 5.1.4 The Service Charge ^{s47C} must not exceed the agreed Service Charge ^{s47C} per Client Enquiry Service as set out in Annex 5-1 of this Schedule 5 (**Pricing**).
- 5.1.5 The Service Charges a ^{s47C} will be reviewed at the end of each Agreement Year in accordance with paragraph 7 below, and any Changes will be subject to Schedule 8 (**Change Control**).
- 5.1.6 The Service Charge ^{s47C} per Client Enquiry Service is all inclusive of the Supplier's costs unless specified otherwise.

6. VOLUMES

- 6.1 The Projected Volumes for the Services at the respective Go-Live Date are set out in Annex 5-2.
- 6.2 Subject to this section 6, if:
- 6.2.1 the number Client Enquiries does not exceed the Projected Volumes by 20%; and
- 6.2.2 the Supplier's Solution is unable to operate (from the relevant Effective Date),

then such failure:

- 6.2.3 is at the Supplier's risk and must be corrected by the Supplier, at the Supplier's cost; and
 - 6.2.4 is subject to the performance requirements specified in Schedule 6 (**Service Levels and Service Credits**).
- 6.3** If the number of Client Enquiries exceeds the Projected Volumes, the Supplier will remain under the obligation to provide the Services in accordance with the Service Levels and Service Credits as set out in this Schedule 5 (**Pricing**) and Schedule 6 (**Service Levels and Service Credits**), however the Parties will agree to the extent that the additional volume of Client Enquiries represent a Relief Event.
- 6.4** If the number of Client Enquiries in any two (2) consecutive months exceeds the corresponding Projected Volumes by 20% or more the Supplier must promptly notify the Department and the Parties will promptly meet and review the situation. The outcome of such review will be one of the following:
- 6.4.1 the Parties agree that the increase in volumes was a seasonal effect and volumes are likely to recede again, and no further action is taken; or
 - 6.4.2 the Parties agree that the increase in volumes was due to a change in the Supplier's activities; or
 - 6.4.3 the Parties agree that the increase in volumes is likely to be a repeated or permanent issue. In this case, the Department will, at its discretion, require the Supplier either to:
 - (a) provide a detailed proposal to rectify any issues;
 - (b) provide details of how the increased volumes will affect the Service Levels.
- 6.5** In the period following notification of the exceeded Projected Volumes in accordance with section 6.4 above until the implementation of a Change in accordance with the Change Control Procedure:
- 6.5.1 the Supplier must propose an interim client service model that continues the provision of the Services over and above the Projected Volumes; and
 - 6.5.2 the Department will allow a change in Service Charge ^{s47C} [REDACTED] for the Supplier for its demonstrable and reasonable additional costs, relating to the increased burden upon the Supplier required to maintain the required levels of Services, where those costs are not already included in the Service Charges ^{s47C} [REDACTED] provided that the Change Control Procedure as listed in Schedule 8 (**Change Control**) is followed.
- 6.6** If at any point the Department considers a course of action has resulted in an unjustifiable increase in the Supplier's revenue the Parties will meet to agree an appropriate adjustment to the Service Charges ^{s47C} [REDACTED]
- 7. ANNUAL REVIEW**
- 7.1** In accordance with Clause 5 of the **Terms and Conditions**, each year within 20 (twenty) Business Days after the end of the Agreement Year, the Department and the

Supplier will review certain aspects of the Service Charges ^{s47C} and agree any changes necessary to improve the value of the Services to the Department and to Clients. This review will include, but not be limited to, the following items:

- 7.1.1 continuous improvement mechanisms;
- 7.1.2 ^{s47C}
- 7.1.3 volume of Services consumed over the prior 12 months and the forecast for the next 12 months;
- 7.1.4 Service models in place and any recommended changes to these models;
- 7.1.5 any additional items that the Parties agree should be included in the Annual Review; and
- 7.1.6 the cost of living.

8. CHANGES

8.1 For the avoidance of doubt, any Changes to or adjustment of the Service Charges ^{s47} as a result of a change of scope of the Services or a change to the Business Requirements will only be made in accordance with either:

- 8.1.1 one of the adjustment mechanisms set out in this Schedule 5 (**Pricing**), or
- 8.1.2 otherwise as expressly agreed in accordance with the Change Control Procedure.

9. REDUCTION IN SERVICE CHARGES ^{s47C}

9.1 If the Supplier enters into an arrangement with a partner country of the Five Countries Conference (**FCC**) for provision of services substantially similar to the Services resulting in the Facilities or Assets being shared:

- 9.1.1 the Supplier must promptly notify the Department and the Parties must meet within 10 Business Days of notice to review the situation;
- 9.1.2 the parties must agree to a reasonable reduction in the Service Charges ^{s47C} effective from a date reasonably agreed between the Parties if efficiencies and cost savings are or may be achieved as a result of common service requirements and shared Facilities and Assets in relation to any arrangement with an FCC partner country;
- 9.1.3 all pricing negotiations held between the Parties must be conducted in good faith; and
- 9.1.4 a reduction in the Service Charges ^{s47C} must follow the Change Control Procedure as listed in Schedule 8 (**Change Control**).

10. ^{s47C}

10.1

s47C

11. CONTRACT EXTENSION

- 11.1** If the Term is extended beyond the Initial Term in accordance with **clause 4.2** of the **Terms and Conditions**, the Parties will review the Service Charges ^{s47C} and, in accordance with the principles of cost allocation set out in the Annex 5-4 and the current, as at the date of the extension, Cost Elements Spreadsheet. The Parties may revise the Service Charges ^{s47C} for the period of such extension based upon the Supplier's actual or reasonably predicted costs of fulfilling the Services Requirements during the period of such extension. This review process may result in the Service Charges or Service Charges ^{s47C} being increased or decreased. If agreement is not reached before such extension, payment for Services will continue on the basis of the Service Charges ^{s47C} applicable to the preceding year in accordance with this Schedule 5 (**Pricing**), until agreement or resolution.

ANNEX 5-1

SERVICE CHARGES s47C

TRANSITION IN FEE

The following tables detail the Transition In Fee:

Table 5-1-1: Transition In Fee

Transition In Fee	

SERVICE CHARGES

The following tables detail the Service Charges:

Table 5-1-2: Service Charge

Volume Base for Service Centre	
Contract Term	24 Months
Service Charge	

s47C

ANNEX 5-2

PROJECTED VOLUMES

The following table details the Projected Volumes of Client Enquiries.

Total Projected Volumes Client Enquiries:

Current Source	Calls	Email
Service Centres	2,200,000	75,000
Business Areas	800,000	25,000
Other	1,200,000	
Total	4,200,000.00	100,000.00

Business Areas – are expected to be integrated progressively in the first year of service delivery.

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Historical Volumes Client Enquiries:

Total volume of enquiries Jan 2016 - Dec 2016 across Sydney, London and Ottawa											
	SSC				ESC				ASC		
Month	Calls received	Calls answered	Email enquiries received	Email enquiries answered	Calls received	Calls answered	Email enquiries received	Email enquiries answered	Calls received	Calls answered	Email enquiries received
Jan 2016	146,437	91,757	2,025	1,276	14,799	10,245	n/a	4,095	11,427	10,300	ASC does not support email enquiries
Feb 2016	164,296	115,955	2,092	1,159	14,685	11,323	n/a	4,512	11,030	9,681	
Mar 2016	159,265	119,572	2,068	1,123	12,795	9,903	n/a	3,823	10,738	9,691	
Apr 2016	147,643	107,920	2,472	1,271	11,416	9,324	n/a	3,558	10,677	9,905	
May 2016	155,625	106,083	2,443	970	11,983	9,349	n/a	3,683	11,277	10,314	
Jun 2016	143,962	100,028	2,244	1,353	13,731	10,107	n/a	3,448	11,622	10,640	
Jul 2016	156,408	96,647	1,368	933	15,036	9,927	3,498	3,559	12,479	10,000	
Aug 2016	174,954	114,073	1,854	883	14,862	10,189	3,518	4,066	13,835	11,311	
Sep 2016	146,517	106,537	1,957	1,091	14,926	10,217	3,394	3,583	12,787	10,098	
Oct 2016	140,742	105,982	2,217	1,008	13,182	7,897	3,752	3,365	14,254	11,275	
Nov 2016	155,725	108,634	1,728	822	13,016	9,072	3,934	4,498	14,407	10,362	
Dec 2016	119,763	99,888	2,032	1,324	9,223	6,873	4,408	3,707	9,293	6,331	
Total	1,811,337	1,273,076	24,500	13,213	159,654	114,426	22,504	45,897	143,826	119,908	-

ANNEX 5-3

s47C



ANNEX 5-4

COST ELEMENTS

The following tables details the Cost Elements:

Table 5-4-1 - Cost Elements

All figures are presented in Australian Dollars, inclusive of all associated Taxes	
Transition In Fee	
Set up	
Facilities	
Advertising	
Recruitment	
Training	
Management Costs	
Client Enquiry Supplier Personnel Costs	
Service Charge	
Phone	
Email	
WebChat	
Other	

s47C

SCHEDULE 6
SERVICE LEVELS AND SERVICE CREDITS

CONTENTS

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SERVICE LEVELS AND SERVICE CREDITS**1. GENERAL PROVISIONS****1.1 Introduction**

1.1.1 This Schedule 6 (**Service Levels and Service Credits**) sets out:

- (a) the Service Levels and Service Credits and other criteria against which the Supplier's fulfilment of the Services Requirements must be measured;
- (b) the process by which Service Levels and Service Credits are added, amended or removed;
- (c) the Supplier's obligation to continually improve the Service Levels and Service Credits;
- (d) the process by which the Service Credits and Tools to be used are agreed;
- (e) the Supplier's requirement to report on its performance against the Service Levels and Service Credits;
- (f) the remedial activities to be undertaken when a Service Level and Service Credit Default occurs;
- (g) the consequences of Service Level and Service Credit Default; and
- (h) the ability of the Department to require the Supplier to carry out quality audits on an 'as required' basis.

1.1.2 The objectives of this Schedule 6 (**Service Levels and Service Credits**) are to:

- (a) ensure that the Supplier's performance meets the Department's business and regulatory requirements;
- (b) give sole responsibility to the Supplier for the end-to-end Service;
- (c) provide a mechanism designed to highlight performance failures;
- (d) provide measurements and information for identifying causes of failure and rectifying them;
- (e) ensure root causes of performance failures are identified and resolved;
- (f) provide incentive to the Supplier to perform the Services at the required level by, where there is a Service Level Default, providing restrictions on:

(i)

s47C

(ii)

s47C

(iii)

s47C

- (g) address the continuous improvement of Service Levels and Service Credits;
- (h) in respect of Services for which a Service Charge is applicable, provide a price adjustment to the Department where Service Levels are not met, through the application of Service Credits offsetting any claim for Service Charges (if any);
- (i) s47C

1.1.3 The Supplier must perform the Services so as to achieve or exceed the Service Levels at all times.

1.1.4 The Service Levels and their measurements, as set out in this Schedule 6 (**Service Levels and Service Credits**), are intended to measure whether the Supplier is meeting the levels of performance necessary to satisfy the Department's business and regulatory requirements. Accordingly, the Service Levels and Service Credits:

- (a) will be regularly reviewed by the Parties in accordance with **clause 9.2** of the **Terms and Conditions**;
- (b) are subject to continuous improvement objectives, as set out in Section 2.3 and **Clause 9.2** of the **Terms and Conditions**; and
- (c) may be added to, amended or deleted during the Term, in accordance with Section 2.3,

in order to achieve the accurate and consistent measurement of the Supplier's performance of the Services.

1.1.5 Unless and solely to the extent that a Service Level Default is caused by a Relief Event, the Supplier must allocate and report Service Credits to the Department, calculated in accordance with Section 5.6, if the Supplier commits a Service Level Default.

1.2 Annexes

The following Annexes are appended to this Schedule 6 (**Service Levels and Service Credits**) and are hereby incorporated by reference:

Annex 6-1 Service Levels and Service Credits Matrix

1.3 Definitions

In this Schedule 6 (**Service Levels and Service Credits**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SERVICE LEVELS AND SERVICE CREDITS**2.1 Performance**

2.1.1 The Supplier must, unless otherwise agreed with the Department, commence measuring the Service Levels and Service Credits from the relevant Effective Date(s).

2.1.2 Except as otherwise stated in this Schedule 6 (**Service Levels and Service Credits**), commencing on the relevant Effective Date(s), the Supplier must meet or exceed the Service Level Target for each Service Level set out in the Service Levels and Service Credits Matrix at Annex 6-1.

2.2 Additions, Amendments and Deletions of Service Levels and Service Credits – after the Effective Date

The Department may add, amend or delete Service Levels and Service Credits at its discretion, as follows:

2.2.1 **Additions:** the Department may add Service Levels and Service Credits by sending a written notice to the Supplier at least forty (40) Business Days prior to the date that such additions to the Service Levels and Service Credits are to be effective. New Service Levels and Service Credits must be implemented through the Change Control Procedure and established in one of the following ways:

(a) where measurement data exist for the fulfilment of a particular Services Requirement, the Service Level Target must be established as the average of such measurements for the six (6) month period prior to the date of the Department's notice unless otherwise agreed by the Parties or agreed by reference to industry standard measures as described in Section 2.2.1(b) below; or

(b) where no measurement data exists for the fulfilment of a particular Services Requirement:

(i) the Parties will attempt to agree (acting reasonably and in good faith) on a Service Level Target which meets Good Industry Practice using industry-standard measures or third party data, information and/or advisory services (for example, Gartner Group, Compass Group or Meta Group); and

(ii) if the Parties fail to agree the Service Level Targets and associated Service Credits prior to the date specified by the Department for the Service Level to become effective (the "**Intended Date**"), which will be no earlier than forty (40) Business Days after the date of the notice from the Department, the Supplier must:

(1) measure the actual performance of the particular Service for a six (6) month period from the Intended Date (subject to the Supplier using Commercially Reasonable Efforts to perform the particular Services Requirement to its best ability) using Tools approved in advance by the Department; and

- (2) the Service Level Target will be established in accordance with the principles in Section 2.2.1(a), calculated using the measurements collected in accordance with 2.2.1(b)(ii)(1), and such Service Level Target must be effective from the end of that six (6) month measurement period.

2.2.2 **Amendments:** as part of the Annual Review process and in accordance with Section 2.3 and **clause 9.2** of the **Terms and Conditions**, the Parties will review and adjust the Service Levels and/or Service Credits to ensure that they reflect the Supplier's obligations to continually improve its Service delivery.

2.2.3 **Deletions:** the Department may delete Service Levels by sending a written notice to the Supplier at least twenty (20) Business Days prior to the date that such deletions to Service Levels are to be effective. Deletions of Service Levels will be implemented as a Non-Chargeable Change through the Change Control Procedure.

2.3 Continuous Improvement

2.3.1 The Service Level Targets may be modified during the Term to reflect the principle of continuous improvement of Service performance. As part of the Annual Review process the Parties will review and adjust the Service Level Targets to ensure that they reflect the Supplier's obligations to continually improve the Service Levels as set out in this Section 2.3 and **Clause 9.2** of the **Terms and Conditions**.

2.3.2 As part of the Annual Review of the Service Levels, the Parties will assess the Supplier's performance against each Service Level in the twelve (12) months immediately preceding the Annual Review:

- (a) if the Supplier has demonstrated a consistent performance in excess of the Service Level Target (where applicable), the Parties will discuss and seek to agree an appropriate upwards adjustment to the Service Level Target to reflect the Supplier's performance;
- (b) no upwards adjustment to such Service Level will be made if, in respect of the Service Level, the annual mean average of the actual performance results in the twelve (12) month period immediately preceding such review is lower than the Service Level Target;
- (c) if the Department reasonably determines that incidents of one (1) or more Service Level Defaults were avoidable or easily treatable by the Supplier, or the Supplier failed to take whatever action was reasonably necessary to fix the root cause of the failure, then each incident so determined by the Department will be removed from the calculation for the relevant month and the annual mean average will be recalculated using the adjusted calculations for the relevant months; and
- (d) Service Level Targets cannot be decreased without the express written consent of the Department.

- 2.3.3 The adjustment of Service Level Targets and/or Service Credits pursuant to this Section 2.3 must be agreed and recorded through the Change Control Procedure as a Non-Chargeable Change.
- 2.3.4 The annual mean average specified in Section 2.3.2 is calculated for each Service Level as the sum of the monthly performance results for the twelve (12) months subject to the Annual Review, divided by twelve (12).

3. MEASUREMENT AND REPORTING

3.1 Use of Tools (as defined in Schedule 1 (Definitions and Agreement Particulars))

- 3.1.1 Unless otherwise identified in Annex 6-1, as applicable, the Tools to be used by the Supplier to monitor each Service Level must be agreed by the Parties prior to the start date for measurement of each Service Level. If the Supplier fails to propose a Tool that is acceptable to the Department for any Service Level prior to the relevant date, such failure to propose an acceptable Tool is deemed a Service Level Default for such Service Level until the Supplier proposes an acceptable Tool.
- 3.1.2 If, after such agreement of an acceptable Tool, the Supplier wants to use a different Tool for a Service Level, the Supplier must provide written notice to the Department informing the Department of this and providing all relevant information about the proposed Tool. The Department will consider the request and, if the Department approves it, the Parties will adjust the measurements as necessary to account for any increased or decreased sensitivity in the new Tool, provided that, if the Parties cannot agree on the required adjustment, the Supplier must continue to use the Tool that had been initially agreed by the Parties.
- 3.1.3 For each month that the Supplier fails to measure Service Level performance for a Service Level in accordance with the agreed measurement methodology and Tool, it will be deemed to be a Service Level Default for such Service Level.
- 3.1.4 It is not anticipated that changes in the Tool will cause Changes in Service Levels; rather, the need to collect and accurately reflect the performance data should drive the development or change in (and enhancement to) a Tool.

3.2 Performance Reporting

- 3.2.1 Unless otherwise specified in this Schedule 6 (**Service Levels and Service Credits**), each Service Level must be measured on a periodic basis by the Supplier in accordance with the relevant Measurement Period and reported by the Supplier in the Monthly Service Report specified in, and delivered in accordance with the timetable set out in Schedule 11 (**Reporting**).
- 3.2.2 the Department will provide to the Supplier such performance data within its control as is reasonably required by the Supplier to measure the achievement of the Service Levels.
- 3.2.3 The Supplier must set out its achievement against all Service Levels in the Monthly Service Report. The Monthly Service Report must provide such detail as is required by the Department to verify the Supplier's performance against the Service Levels in the table at Annex 6-1. To the extent not agreed by the

Parties in Schedule 11 (**Reporting**), the Parties will, within twenty (20) Business Days after the Effective Date, agree the standard format and content of the Monthly Service Report.

3.3 Client Satisfaction

3.3.1 The Supplier must take the steps in Section 3.3.2 to monitor, maintain and enhance the satisfaction of Applicants and the Department Personnel specified by the Department in the quality of the Services provided by the Supplier.

3.3.2 The Supplier must:

- (a) perform, in co-ordination with the Department, comprehensive satisfaction surveys of Clients and the Department Personnel specified by the Department according to agreed procedures, frequency and metrics ("**Client Satisfaction Surveys**") and ensure that full analysis of the results of such surveys are reported to the Department through the Contract Managers, as detailed in Schedule 7 (**Governance**);
- (b) ensure that each Client has the opportunity to complete a Client Satisfaction Survey;
- (c) implement procedures to ensure the capture of feedback from Clients in respect of the Services, including providing a clear and straightforward process through which Applicants may make a complaint and reporting such complaints promptly to the Department; and
- (d) attend, as required by the Department, meetings with the Department's representatives to discuss the results of the Client Satisfaction Surveys and address any issues arising from such results.

3.3.3 The Supplier is to ensure that the results of the Client Satisfaction Surveys demonstrate a continuous improvement in the levels of satisfaction of Applicants and surveyed the Department Personnel.

3.3.4 The Department is entitled, either itself or through an appointed third party, to conduct its own Client Satisfaction Surveys to complement or verify the results of the Supplier-conducted Client Satisfaction Surveys.

4. SERVICE LEVEL AND SERVICE CREDIT DEFAULTS AND REMEDIAL ACTIVITIES

4.1 Failure to Perform

In addition to remedial activities specified in Section 5.5 in respect of each Service Level and Service Credit Default, the Supplier must:

- 4.1.1 take whatever action is reasonably necessary to minimise the impact of the failure and prevent it from recurring;
- 4.1.2 notify the Department as soon as the Supplier becomes aware of such failure;

- 4.1.3 carry out a root cause analysis to investigate the underlying causes of the failure and use its Commercially Reasonable Efforts to preserve any data indicating the cause of the failure;
- 4.1.4 correct the failure and immediately resume fulfilment of the Services Requirements to meet the applicable Service Level;
- 4.1.5 prepare and deliver to the Department a report identifying the failure and, where possible, its cause, business impact, remedial plans, timescales for improvement plans and any impact on the fulfilment of the Services Requirements; and
- 4.1.6 advise the Department, as and to the extent requested by the Department, of the status of all remedial efforts being undertaken by the Supplier with respect to the underlying cause of the failure.

4.2 Escalation

- 4.2.1 Section 5.5 sets out various escalation requirements in relation to Service Level and Service Credit Defaults.
- 4.2.2 If there are significant, multiple or repeat Service Level and Service Credit Defaults, the Department may require the Supplier to escalate the relevant Service Level and Service Credit Defaults in accordance with Schedule 7 (**Governance**).
- 4.2.3 If the Department determines that the Supplier is not taking appropriate or sufficient steps to remedy the root cause of any Service Level and Service Credit Default as required under Section 4.1 above, the Department may require the Supplier's senior executives to attend a meeting of the Contract Managers as specified in Schedule 7 (**Governance**) and agree the additional remedial efforts which need to be undertaken by the Supplier.

4.3 Co-operation

- 4.3.1 The achievement of the Service Levels and Service Credits by the Supplier may require the coordinated, collaborative effort of the Supplier with other service providers, vendors and other third parties contracted with or by the Department. The Supplier must provide a single point of contact for the prompt resolution of all Service Level and Service Credit Defaults and all other performance related issues.

4.4 Grace Period

- 4.4.1 The Grace Period for Service Levels and Service Credits under this Agreement is set to a three (3) month period from the initial Go-Live date for the Services. No Grace Period will apply for Services commencing after the first three (3) months of the Term.

5. PERFORMANCE MANAGEMENT

5.1 General Principles

- 5.1.1 Annex 6-1 sets out the Service Levels and Service Credits.

5.1.2 Where a Service Level specifies more than one (1) Service Level Target, the failure by the Supplier to meet any one of those Service Level Targets is deemed to be a Service Level Default.

5.2 Cap on Number of Service Levels and Service Credits

5.2.1 The overall number of Service Levels must not exceed seven (7).

5.2.2 If the Department wishes to increase the total number of Service Levels beyond seven (7), then the Parties will agree such increase in accordance with the Change Control Procedures.

5.3 Service Level and Service Credit Default

5.3.1 In the event of a Service Level Default in any calendar month, the Department may enact the following performance management actions:

s47C



(d) calculate and apply Service Level Credits set out in Section 5.5 below.

5.3.2 The Supplier must perform remedial activities set out in Section 4.1 for all Service Level Defaults.

5.3.3 The performance of the Service Centre(s) is to be escalated to the Contract Manager within ten (10) Business Days after the end of the relevant month in the event of repeat instances of Service Level Default. Nothing in this Section 5.3 relieves the Supplier's requirement to escalate issues of importance to the Department once identified, in accordance with Schedule 7 (**Governance**).

5.4 Performance Improvement

5.4.1 The Supplier will have Performance Improvement opportunities as follows:

- (a) within fifteen (15) Business Days after the end of each Agreement Year, the Supplier must provide an End of Year Performance Report to the Department that includes, with respect to each Service Level for which there was a Service Level Default during the preceding Agreement Year, the following:
 - (i) statistics on the Supplier's Monthly Service Level performance during the preceding Agreement Year;
 - (ii) the Yearly Performance Average; and
 - (iii) any performance management action taken with respect to the Service Level.

- (b) if, during the preceding Agreement Year, the Supplier achieved a Yearly Performance Average in a Service Level that was greater than, or equal to, the Service Level Target, then the Supplier may in respect of any Service Level Defaults against that Service Level during the preceding Agreement Year, request the Department:
 - (i) not to enact the performance management actions; or
 - (ii) where performance management action has already been taken, to cease the performance management action;
- (c) if, during the preceding Agreement Year, the Department deletes a Service Level in accordance with Section 2.2, the Supplier may report the Service Level Defaults against that Service Level as no longer applicable;
- (d) if, during the preceding Agreement Year, the Department adds a Service Level, the Supplier must calculate the Yearly Performance Average for such Agreement Year based on twelve (12) months of data by;
 - (i) using all available performance measures for such Agreement Year, including measurements obtained during any baselining period; and
 - (ii) substituting the Service Level Target for the missing month's measurement value.

5.5 Remedial Activities and Service Credits for repeated failures

5.5.1 In addition to the provision of Sections 4.1 and 4.2 above, the following procedures will apply, if an Extended Service Level Default occurs:

- (a) the Supplier must promptly contact the Department and the Parties will review the need for a “**Recovery Plan**”. The scope, format and implementation of all Recovery Plans will be agreed by the Parties within five (5) Business Days after the Effective Date and incorporated into the Supplier's and the Department's Procedures Manual;
- (b) the status of implementation of the Recovery Plan must be reported by the Supplier on a weekly basis (simple written report) and will be reviewed by the Parties as part of the regular meetings in accordance with Schedule 7 (**Governance**); and
- (c) if, on the expiry of the Recovery Plan, the relevant Service Level performance under review remains below the relevant Service Level Target set out in Annex 6-1, then:
 - (i) the process set out in this Section 5.5 will be repeated, at the Department's sole discretion; or
 - (ii) the Department may escalate resolution of the Service Level performance in accordance with Schedule 7 (**Governance**), at the Department's sole discretion; or

- (iii) the Department will calculate Service Credits for services or areas identified where:
 - a. Minimum benchmark score and corresponding threshold requirements for each Service Level line item has not been met against the stated target (i.e., 100% of the service must be met 100% of the time).
 - b. the applicable Service Level measurement period has been completed and associated reporting has occurred to allow for measurement of Service Level achievement;
 - c. the application of Service Credits will be at the Department's sole discretion, reserving it's right to apply Service Credits prior to, or following the Recovery Plan as listed in Section 5.5 above; and
 - d. Service credits are calculated against the tables set out in Annex 6-1.

5.6 Application of Service Credits

5.6.1 Service credits are calculated against the tables set out in Annex 6-1 for applicable Service Credit Allocations that apply if any Service Level Default occurs in the relevant month. To incentivise the Supplier to quickly and effectively remedy Service Level Defaults, a multiplier mechanism may be in place which may increase the applicable Service Credit Allocations for repeated Service Level Defaults.

5.6.2 For all Service Credits which the Department notifies the Supplier in writing are now due, in accordance with **clause 11.3** of the **Terms and Conditions**, which have been accrued in accordance with this section 5, the Supplier must:

- (a) s47C
- (b) for Enquiry Services for which s47C is payable add the Service Credits to a Service Credit "bank". The Service Credit "bank" must be available to the Department upon request for additional and/or a change of business requirements for the life of the Agreement; and/or
- (c) s47C

5.6.3 If, at the end of the Term, no more invoices will be submitted by the Supplier, the Supplier must pay any Service Credits owing to the Department by the date specified in the notice (where applicable).

5.6.4 In accordance with **clause 11.2** of the **Terms and Conditions**, payment of Service Credits is without prejudice to the Department's rights to recover Losses from the Supplier or to other remedies available to the Department. Any Claim for damages for a Default or failure where a Service Credit has

already been received by the Department will be reduced by the amount of that Service Credit.

5.7 Service Credit Cap

5.7.1 Except as set out in Section 5, the aggregate amount of Service Credits accrued to the Department with respect to all Service Level Defaults occurring in any calendar month will not exceed, in total, 25% of the aggregate Service Charge ^{s47C} collected by the Supplier ("**Service Credit Cap**").

5.7.2 The aggregate amount of Service Credits accrued to the Department in any one (1) calendar month may exceed the Service Credit Cap if the Parties discover that Service Credits are attributable to the Supplier's failure to meet any one (1) or more Service Levels in earlier months. For example, an Audit may reveal that, in an earlier month, the Supplier actually failed to meet certain Service Levels, which were reported in error as having been met. In this example, in addition to the Service Credits accrued in the current month (which cannot exceed the Service Credit Cap for that current calendar month), the Service Credits attributable to earlier Service Level Defaults will also be accrued to the Department, provided that, when separately calculated, they do not exceed the Service Credit Cap for that prior calendar month.

6. EXCLUSIONS

6.1 In calculating the Supplier's compliance with the Service Levels and Service Credits, events for which the root cause is determined to be one (1) or more of the following will not be included in such calculations (unless the event is the result of acts or omissions of the Supplier):

6.1.1 any event arising as a direct consequence of a Relief Event as set out in **clause 44** of the **Terms and Conditions**;

6.1.2 any action taken by the Supplier at the authorised request of the Department contrary to the express, reasonable advice of the Supplier; or

6.1.3 the Department's failure to fulfil its obligations under the Agreement.

7. QUALITY AUDITS

7.1 Supplier Quality Audit

7.1.1 Where the Supplier identifies a failure through its own quality audit process and the Supplier brings that failure to the attention of the Department then the failure will be 'self-reported' for the purposes of measuring the 'Audit Quality' measure in Annex 6-1, providing:

- (a) the Department has not discovered the failure prior to the Supplier reporting the failure to the Department; or
- (b) the Department has not, at the time the failure is reported by the Supplier to the Department, commenced a quality audit that the Department reasonably considers would have discovered the failure.

7.2 Audit Support

- 7.2.1 On request by the Department, the Supplier must provide a representative sample of data entries from the Service Levels in order to verify the accuracy and completeness of the Supplier's fulfilment of the Services Requirements.
- 7.2.2 On request by the Department, the Supplier must provide the Department with access to the Supplier systems for the purpose of verifying the accuracy and completeness of the Supplier's fulfilment of the Services Requirements.

7.3 Audit Process

- 7.3.1 The records relating to the representative sample to be audited must be checked against the criteria specified below or other criteria as agreed by the Parties. The criteria must be marked either as a yes (compliant) or a no (non-compliant) answer in respect of each such criteria.
- (a) s47C Service Charges have been applied correctly (severe);
 - (b) all required POI checks have been undertaken prior to using Client Data (severe);
 - (c) the Supplier has implemented an action plan to remedy a failure (major);
 - (d) the Client Enquiries have been Escalated appropriately (major)
 - (e) the reported information is correct (major);
 - (f) the Supplier has, and adheres to, a certified QMS (minor);
 - (g) the Supplier has, and adheres to, the required Plan(s) (minor);
 - (h) all approvals and consents have been obtained from the Department as required by the Agreement (minor);
 - (i) all obligations have been met (minor); and
 - (j) correct problem escalation has occurred at appropriate intervals.
- 7.3.2 In addition to regular audits, the Department may conduct random reviews of the Supplier's Services, mystery shopping and/or dummy Enquires to assist in the measurement of the Service Level through the identification of non-compliances.
- 7.3.3 The Department will provide the Supplier with a report after each audit undertaken by the Department including, if applicable, evidence such as copies of documentation of the failure.

7.4 Scoring

- 7.4.1 In respect of each such quality audit, the Parties will agree the results of the audit and the number of compliant and non-compliant Service Levels.

7.5 Remedial Action

- 7.5.1 In the event that Service Levels are not achieved in respect of any quality audit, the Supplier must produce an action plan to remedy the failure, notwithstanding the application of Service Level Default Actions under the Agreement.
- 7.5.2 A failure will continue to be reported monthly until the Supplier has provided evidence that the failure has been rectified or, at the Department's absolute discretion, the Department considers the Supplier has implemented the processes required to rectify the failure in a reasonable period.

ANNEX 6-1**SERVICE LEVELS AND SERVICE CREDITS**

All Service Level Targets are at 100% unless otherwise indicated

All Service Levels are to be measured on a **monthly** basis, unless otherwise indicated

All amounts listed are **AUD** amounts

A failure in one Service Level does not preclude a failure in another Service Level

Service Level	Service Level Targets	Acceptable Tolerance Level	Applicable Service Credit	Reference
1. REPORTING	<p>The Supplier must provide the Department with reports in accordance with Schedule 2 (Business Requirements & Supplier Solution) and Schedule 11 (Reporting)</p> <ol style="list-style-type: none"> 100% of required reports are provided to the Department in accordance with Schedule 11 (Reporting) 100% of required reports are provided within the nominated timeframes in accordance with Schedule 11 (Reporting). 100% of required reports meet the format and quality requirements in accordance with Schedule 11 (Reporting). 	<ol style="list-style-type: none"> Zero instances of a missing report per month One instance of a late report per month One instance of a sub-standard report per month 	For every instance greater than the acceptable tolerance error a service credit of \$1000 per instance will apply.	Schedule 2 & 11
	<p>Measurement</p> <ol style="list-style-type: none"> The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports correctly provided to the Department. The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports received within the nominated timeframe by the Department. The number of reports due to be provided to the Department in accordance with Schedule 11 (Reporting) minus the number of those reports that meet the format and quality requirements. 			

<p>2.</p> <p>QUALITY AUDIT</p>	<p>The Supplier must pass the quality audits conducted by itself or by the Department to a satisfactory level, namely all Service Requirements of the Agreement have been met and all information reported to the Department is accurate.</p> <p>1. 100% of the Service Requirements have been met; and 100% of information reported to the Department is accurate.</p>	Nil	<p>The list as follows presents the Applicable Service Credits that will apply.</p> <p>1 - 4 Failure Points = \$250 per Failure Point</p> <p>5 - 7 Failure Points = \$500 per Failure Point</p> <p>8 - 10 Failure Points = \$750 per Failure Point</p> <p>11 or more Failure Points = \$1000 per Failure Point</p> <p>For example:</p> <p>2 Failure Points = \$500 Service Credit</p> <p>8 Failure Points = \$6000 Service Credit</p> <p>12 Failure Points = \$12000 Service Credit</p>	Schedule 6
	<p><u>Measurement</u></p> <p>1. The measure is determined by adding together the number of Failure Points for the month. The Failure Points are determined by multiplying the number of instances of non-compliance discovered by the severity of the non-compliance.</p> <p>For instances that are not self-reported by the Supplier the severity factor is:</p> <p>10 for severe non-compliances; 5 for major non-compliances; and 2 for minor non-compliances.</p> <p>For instances that are self-reported by the Supplier the severity factor is:</p> <p>5 for severe non-compliances; 2 for major non-compliances; and 1 for minor non-compliances.</p>			

<p>3. FEES</p>	<p>The Supplier must invoice the Department the correct amount for Service Charges ^{s47C} [REDACTED]</p> <p>1. 100% of Service Charges ^{s47C} [REDACTED] are claimed from the Department ^{s47C} [REDACTED] at the applicable rate agreed in Schedule 5 (Pricing).</p> <p><u>Measurement:</u></p> <p>1. The number of times the value of each Service Charge ^{s47C} [REDACTED] in Schedule 5 (Pricing) minus the value of each Service Charge ^{s47C} [REDACTED] actually charged is positive.</p> <p>a) The Department may conduct random reconciliation or audit activities to allow for the accurate measurement of the collection of the Service Charges ^{s47C} [REDACTED].</p> <p>b) The payment of a Service Credit (if any) under this performance measure does not alleviate the requirement (if any) to reimburse the Department ^{s47C} [REDACTED] as required under the Agreement.</p>	<p>1. Zero instances of overcharging</p>	<p>For each instance where the measurement is positive a service credit of \$100 per instance will apply.</p>	<p>Schedule 2</p> <p>Service Requirement 3.38.2</p> <p>And</p> <p>3.38.9</p>
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<p>4.</p> <p>SERVICE DELIVERY</p>	<p>Enquiries received by email, telephone, and through website services must be responded to in a timely manner, with the availability of respective systems and accurate information.</p> <ol style="list-style-type: none"> 1. WebForm enquiries received to be answered within 8 Business Hours. 2. Calls are to be answered and speaking to an operator to answer Enquiries within ninety (90) seconds 3. Client-initiated WebChats to be accepted by an operator 4. Web search function available for search 24 hours, 7 days a week. This excludes “planned downtime” as previously notified by the Supplier to the Department. 5. WebForm available for submission 24 hours, 7 days a week. This excludes “planned downtime” as previously notified by the Supplier to the Department. 6. WebChat available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 7. Ticket Management available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 8. Knowledge Management available during agreed operational hours. This excludes “planned downtime” as previously notified by the Supplier to the Department. 9. Client Enquiries escalated to Tier 3 meet the definition of Tier 3. 10. Client Enquiries meeting the definition of Tier 3 Escalated to Tier 3. 11. Call recordings are available to the Department between 1 day and 3 months after the Call took place. 	<ol style="list-style-type: none"> 1. 95% 2. 95% 3. 95% 4. 100% 5. 100% 6. 100% 7. 100% 8. 100% 9. 100% 10. 100% 11. 100% 12. 100% 13. 100% 14. 100% 	<p>For:</p> <p>1-3 - each percentage point not achieved against the benchmark requirement within the tolerance level a service credit of \$500 per percentage point will apply.</p> <p>4-14 - for each percentage point not achieved against the benchmark requirement a service credit of \$1000 per percentage point will apply.</p>	<p>Schedule 2</p> <p>Service Requirement 3.11.3</p> <p>And</p> <p>3.13.2</p>
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	<p>12. Enquiry transcripts available in English, and the original language of the Enquiry where different, available to the Department according to the agreed Enquiry Handling Operations Plan between 1 day and 3 months after the Enquiry took place.</p> <p>13. Case Information available according to the agreed Enquiry Handling Operations Plan between 1 day and 3 months after the Enquiry took place.</p> <p>14. Updates requested by the Department made according to the agreed Enquiry Handling Operations Plan</p>			
	<p><u>Measurement</u></p> <p>1-3,9-14 The number actions complete / total number of actions X 100 (rounded down to nearest whole number)</p> <p>4-8 The number of hours available / total number of hours X 100 (rounded down to nearest whole number)</p> <p>a) The Supplier must provide monthly Interaction reports detailing the number of Enquiries received by Access Point and the nature of the Enquiry. This report must detail the date and time the Enquiry was received and answered. The Report must also list the total waiting time for each phone call and the number of calls abandoned; and</p> <p>b) Supplier must be able to be capable of identifying and reporting any system and/or website downtime on a monthly basis to the Department;</p> <p>c) The Department may conduct random reviews of the Supplier's Services, mystery shopping and/or dummy Enquires to assist in the measurement of the Service Level; and</p> <p>d) Customer complaints in relation to system and/or Website access may be subject to further investigation by the Supplier and/or the Department to identify associated downtime periods and/or timing of Enquiries being answered</p>			

**SCHEDULE 7
GOVERNANCE**

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GOVERNANCE

1. INTRODUCTION

- 1.1 This Schedule 7 (**Governance**) sets out the governance structure for the Agreement, the roles and responsibilities of all Parties to maintain an effective working relationship and the type, content and frequency of management review meetings that are required to take place.
- 1.2 The governance structure set out in this Schedule 7 (**Governance**) will be implemented in accordance with the principles contained in this Schedule 7 (**Governance**), which are designed to ensure that:
- 1.2.1 a forum for co-operative and proactive management of the Agreement is established so that the Agreement is performed as required;
 - 1.2.2 the Services are provided professionally, and in accordance with the Agreement;
 - 1.2.3 the Services meet the Services Requirements;
 - 1.2.4 the provision of the Services is constantly monitored to ensure compliance with Performance Standards, and that appropriate and timely action is taken to deal with any problems or issues;
 - 1.2.5 the Services are performed in accordance with the Department's compliance, audit and risk management requirements;
 - 1.2.6 the Supplier undertakes its responsibilities in a timely and professional manner;
 - 1.2.7 the governance structure is kept up to date and modified, as appropriate, to comply with the changing requirements of the Department, including updates to Commonwealth or Department Policies;
 - 1.2.8 potential problems and issues are identified early, and any identified problems and issues and any disputes are resolved promptly in a co-operative manner;
 - 1.2.9 each specific Transition Plan is governed according to the provisions outlined in this Schedule 7 (**Governance**);
 - 1.2.10 Changes are managed correctly and are monitored; and
 - 1.2.11 Exit Assistance is managed effectively.

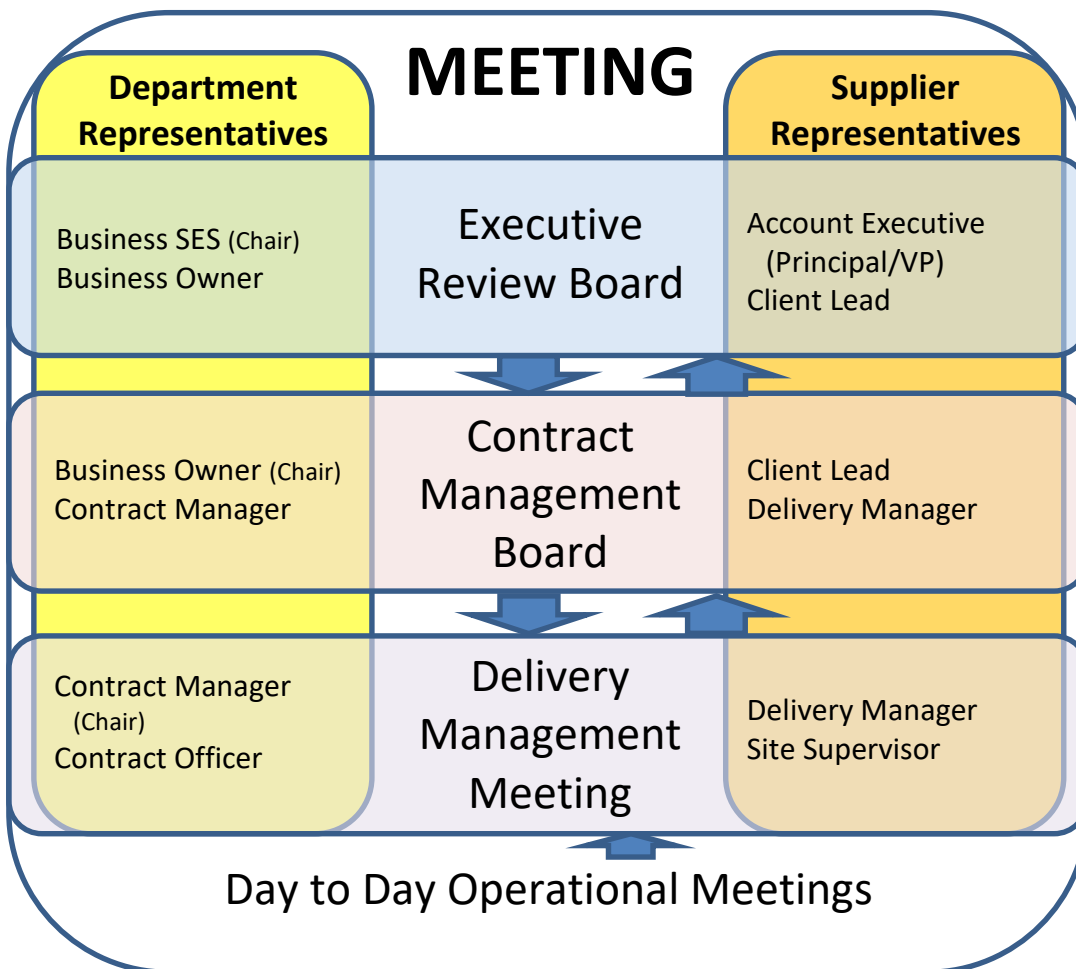
2. SCOPE

- 2.1 Nothing in this Schedule 7 (**Governance**) is intended to or limits any obligations of either Party set out elsewhere in the Agreement.
- 2.2 The inclusion or exclusion of any matter in the list of matters to be discussed in a particular forum is not intended to affect, or to be used to interpret, the scope of the obligations imposed on either Party elsewhere in the Agreement.

- 2.3 The governance structures outlined in the Agreement must be in place before the Supplier starts to offer any Services in any Country. The Parties will be individually responsible for putting in place their respective governance structures and teams required to deliver the governance structures outlined in the Agreement.

3. OVERVIEW AND PRINCIPLES

- 3.1 A four (4) tiered management approach will be adopted for the purposes of managing the Agreement.
- 3.2 The diagram below and following paragraphs outline the hierarchy and purposes of the four (4) tiers for the management of the Agreement:



- 3.1 All meetings are to be held on the Department's premises in Canberra, unless otherwise agreed by the Parties.

4. EXECUTIVE REVIEW BOARD

- 4.1 As soon as practicable, but in any event no later than one (1) month, after the Effective Date, the Parties will establish an Executive Review Board (ERB). Meetings will initially take place bi-annually from the Effective Date or otherwise as agreed by the Parties. The ERB is not intended to be involved in day-to-day management of the Agreement. The purpose of the ERB is to provide high level strategic oversight of the Agreement and provide guidance for future development of Services.

- 4.2 On and from the Effective Date, the Department and the Supplier will discuss and mutually agree on the following:
- 4.2.1 the size and constitution of the ERB;
 - 4.2.2 the authority of the ERB;
 - 4.2.3 the process to be followed by the ERB to arrive at decisions;
 - 4.2.4 the authority of the ERB Chair; and
 - 4.2.5 the binding nature or otherwise of the decisions taken by the ERB.
- 4.3 The Department membership of the ERB is detailed in Attachment 7-1. The Supplier membership of the ERB is detailed in Attachment 7-2.
- 4.4 The Parties have the following responsibilities in regard to the ERB:
- For the Department:
- 4.4.1 schedule the meeting; and
 - 4.4.2 chair the meeting.
- For Supplier:
- 4.4.3 draft the agenda;
 - 4.4.4 record the Minutes from each meeting; and
 - 4.4.5 circulate the Minutes.
- 4.5 The responsibilities of the ERB will include:
- 4.5.1 monitoring at a strategic level the performance of the Department and the Supplier in achieving the delivery of the Services;
 - 4.5.2 resolving any relationship issues arising out of the Agreement that have been escalated to the ERB;
 - 4.5.3 setting the strategic direction for the Agreement;
 - 4.5.4 providing a forum for the resolution of disputes that cannot be resolved at the Contract Management Board (CMB) level;
 - 4.5.5 providing advice and guidance to the CMB for performance improvement activity; and
 - 4.5.6 within the authority of the ERB, endorsing actions beyond the authority of the CMB.
- 4.6 In addition to the ERB members identified in Attachment 7-1 and Attachment 7-2, the Parties may invite additional appropriate representatives to attend the ERB on an as required basis.

- 4.7 Where a Party is seeking additional representatives to attend the ERB the Party must obtain the approval of the other Party for those representatives to attend prior to the commencement of the ERB.
- 4.8 The Department will be responsible for keeping Attachment 7-1 up to date during the Term. The Supplier will be responsible for keeping Attachment 7-2 up to date during the Term.
- 4.9 Wherever reasonably practicable, each Party will give the other one (1) month's written notice in the event it wishes to change its permanent representatives on the ERB.

5. **CONTRACT MANAGEMENT BOARD**

- 5.1 A Contract Management Board (CMB) must be in place before the Supplier starts to offer any Services. The purpose of the CMB is to:
- 5.1.1 ensure the alignment of the delivery of the Services in accordance with the Agreement and to provide a forum for the resolution of day-to-day operational, contractual, relationship and Service problems and disputes arising out of the Agreement;
 - 5.1.2 provide a higher level management, escalation and authoritative forum from the Delivery Management Meeting, and assist the Department and the Supplier in decisions that directly affect the Agreement;
 - 5.1.3 provide global coordination of the Agreement, as required; and
 - 5.1.4 establish and monitor a program of continuous improvement.
- 5.2 The responsibilities of the CMB will include, but not be limited to:
- 5.2.1 providing a higher level of supervision and management than the routine activities of the Agreement and the day-to-day management of the Services;
 - 5.2.2 ensuring business alignment, analysis of business plans and oversight of business development;
 - 5.2.3 reviewing cost reduction proposals;
 - 5.2.4 reviewing and authorising operational, financial and resource plans and authorising business and technical proposals;
 - 5.2.5 reviewing performance of the Agreement;
 - 5.2.6 carrying out risk management and providing an analysis for review by the ERB;
 - 5.2.7 providing a forum for the escalation of disputes than cannot be resolved at the delivery management level;
 - 5.2.8 reviewing the management summary reports and recommendations;
 - 5.2.9 reviewing, on an annual basis, recommendations and providing authorisation as required for:

- (a) Service Level and Service Credit performance, including Service Credit Allocation history, and calculation of Service Credits (if any) for the previous twelve (12) months (or such lesser period if the Grace Periods that apply to the applicable Service Levels as set out in Schedule 6 (**Service Levels and Service Credits**) expired less than 12 months before the relevant review time);
 - (b) proposal for Changes to Service Levels and Service Credits (if any) including continuous improvement;
 - (c) financial budget/actuals;
 - (d) Service Charges ^{s47C} [REDACTED]
 - (e) satisfaction surveys;
 - (f) audit results;
 - (g) compliance requirements; and
 - (h) ongoing assessment of Value For Money results;
- 5.2.10 reviewing and authorising New Services requests and Changes to the Agreement;
- 5.2.11 reviewing the Business Continuity Plan and identifying potential business continuity issues and risks, and referring them to the ERB where appropriate;
- 5.2.12 reviewing the implementation of the Agreement and the achievement of the Agreement objectives (as set out in Recital D of the Agreement), key Milestones and deliverables;
- 5.2.13 managing Changes in accordance with the Change Control Procedure set out in Schedule 8 (**Change Control**); and
- 5.2.14 developing the governance structure and approving the Supplier's Contract Delivery Manual described in Section 8.2 below.
- 5.3 The Department membership of the CMB is detailed in Attachment 7-1. The Supplier membership of the CMB is detailed in Attachment 7-2.
- 5.4 The Parties have the following responsibilities in regard to the CMB:
- For the Department:
- 5.4.1 schedule the meeting;
 - 5.4.2 chair the meeting; and
 - 5.4.3 raise issues, as required, to the ERB.
- For the Supplier:
- 5.4.4 draft the agenda;

- 5.4.5 record the Minutes from each meeting; and
- 5.4.6 circulate the Minutes.
- 5.5 Meetings will take place three monthly from the Effective Date or otherwise as agreed by the Parties.

6. DELIVERY MANAGEMENT MEETING

- 6.1 The purpose of the Delivery Management Meeting (DMM) is to provide a forum for monitoring the ongoing performance of the Supplier against the Services.
- 6.2 The DMM will meet on a fortnightly basis, or as otherwise agreed by the Parties.
- 6.3 The DMM will:
 - 6.3.1 implement and manage the Agreement at the local level, including:
 - (a) monitoring and implementing Transition Plans and the achievement of key Milestones;
 - (b) ensure all plans, including operations, financial and resource plans are developed and implemented in accordance with the Agreement;;
 - 6.3.2 review the performance against the metrics and monitor trends to ensure potential issues are captured and addressed early;
 - 6.3.3 monitor the quality and timely delivery of reports as required by the Agreement;
 - 6.3.4 agree the Service Levels achieved, as relevant for the reporting period, and monitoring the performance of the Service Levels and Service Credits;
 - 6.3.5 reviewing and scheduling of CCNs within each Party's respective delegated authority limits;
 - 6.3.6 reviewing and recommending business development proposals for New Services to the CMB;
 - 6.3.7 reviewing performance improvement and making recommendations directly to the CMB;
 - 6.3.8 monitoring and reviewing the ongoing status of Third Party Contracts;
 - 6.3.9 monitoring adherence to quality management processes and procedures;
 - 6.3.10 supervising the co-operation and other matters between the Parties;
 - 6.3.11 submitting issues concerning the relationship between the Parties to the CMB;
 - 6.3.12 managing operational problems, issues and disputes in accordance with escalation procedures;
 - 6.3.13 resolve any issues as close to the actual provision of the Services as possible;

6.3.14 handling of disputes within the delegation limits / authority of the DMM in accordance with the Dispute Resolution Procedure; and

6.3.15 referring matters outside its authority to the CMB.

6.4 The Supplier must provide the Department with a list of contact details, including mobile phone numbers, of its Delivery Managers at the Effective Date. This list will be kept up to date at all times during the Term. The Supplier's Delivery Managers will need to be contactable twenty four (24) hours a day, with deputies provided as needed.

7. OPERATIONAL MEETINGS

7.1 Prior to the Effective Date the Supplier must identify a Site Supervisor. The Site Supervisor and the Department's nominated Contract Officer will act as the primary contacts and interface between the Parties in respect of the day to day delivery of the Services and operation of the relationship between the Parties.

7.2 The Department Contract Officer and Supplier Site Supervisor will, at a minimum and unless otherwise agreed, meet weekly to discuss day-to-day operations and such other matters as may be relevant to the provision of the Supplier's Solution.

7.3 The responsibilities and authorities of the Site Supervisor will be set out in the Supplier's Contract Delivery Manual and will include, but not be limited to, matters such as:

7.3.1 managing the day-to-day delivery of the Services;

7.3.2 implementing the Agreement on the ground;

7.3.3 monitoring and implementing the Transition Plan;

7.3.4 managing operational problems, issues and disputes in accordance with escalation procedures;

7.3.5 ensuring efficient flow of documentation and production of Reports as required by the Agreement;

7.3.6 monitoring local adherence to quality management processes and procedures; and

7.3.7 generally dealing with any matter or issue arising out of or in connection with the Agreement within their respective delegated authorities.

7.4 At the Effective Date, the Supplier must provide the Department with a list of contact details, including mobile phone numbers, of its Site Supervisor(s). This list will be kept up to date at all times during the Term. These representatives will need to be contactable twenty four (24) hours a day, with deputies provided as needed.

8. ON-GOING GOVERNANCE

8.1 As soon as practicable but in any event no later than two (2) months after the Effective Date, the Parties will finalise the governance structure, which will be based upon the principles set out in this Schedule 7 (**Governance**). It is intended that some of the authorities and responsibilities of the CMB will be delegated to the Parties' respective Delivery Management representatives.

- 8.2 The Parties will work together to further develop the governance structure which will be detailed in the Supplier's Contract Delivery Manual to be issued within three (3) months after the Effective Date. The Supplier's Contract Delivery Manual will describe the roles of each Party's respective contract management groups and the interfaces between those groups. The Supplier's Contract Delivery Manual will set out the delegated authorities of each work group. The Supplier's Contract Delivery Manual will be reviewed and approved by the CMB.
- 8.3 As an interim measure until such time as the Supplier's Contract Delivery Manual is approved by the Department, the Supplier will, at a minimum, provide the Department on or before the Effective Date with:
- 8.3.1 contact information for the Supplier's central point of contact for all Agreement-related matters;
 - 8.3.2 the process for consolidation, maintenance and storage of contractual records and documentation;
 - 8.3.3 procedures for the administration of and compliance with the Agreement;
 - 8.3.4 procedures for monitoring Supplier compliance with the processing of Client Enquiries, customer satisfaction, monitoring Service Levels and Service Credits and dealing with complaints from Clients;
 - 8.3.5 procedures for on-going issue and Change management; and
 - 8.3.6 process for identifying and addressing areas of improvement of the Agreement.
- 8.4 The Parties will periodically (and at least once per annum within the month after the Effective Date) review and update the Supplier's Contract Delivery Manual. All such reviews will be conducted and approved by the CMB.
- 8.5 The Department and the Supplier will jointly develop and implement agreed business assurance processes, which will be incorporated within the Supplier's Contract Delivery Manual.

9. DISPUTE RESOLUTION PROCEDURE

- 9.1 General
- 9.1.1 The Supplier undertakes to work with the Department to resolve any disputes as quickly as possible to minimise cost and the impact on the provision of the Services.
- 9.2 Informal Dispute Resolution
- 9.2.1 In accordance with this Schedule 7 (**Governance**), the Parties agree to attempt to resolve all disputes at the lowest possible managerial level without escalation. However, from time to time, issues may arise that cannot be resolved at that level.
 - 9.2.2 It is the intent of the Department and Supplier to resolve issues in a constructive way that reflects the concerns and commercial interests of each Party. It is also the intention to have the issues resolved by the

appropriate levels of authority without the need for escalation. With this in mind, the following steps are to be followed:

(a) Notification of escalation - either Party may decide that escalation is appropriate when resolution of an issue appears unachievable at the current managerial level. In this case, the Party desiring to escalate the issue notifies the other Party and, if requested by the other, they shall meet again to attempt to resolve the issue.

(b) Documentation - both Parties will try to develop jointly a short briefing document called Statement of Issue for Escalation that describes the issue, relevant impact and positions of both Parties.

(c) Request for Assistance - a meeting will be scheduled with appropriate individuals as described below. The Statement of Issue for Escalation is sent in advance to the participants. It is the intention of the Department and the Supplier that issues are escalated for review and resolution to the next level of management in an ascending order as follows:

- (i) Contract Officer/Site Supervisor;
- (ii) Contract Manager/Delivery Manager;
- (iii) the Contract Management Board; and
- (iv) the Executive Review Board.

(d) Issue Review - following review and resolution, the decision shall be documented and returned to both Parties.

9.3 Alternative Dispute Resolution

9.3.1 If the issue is not resolved by the process set out in Section 9.2 above (or solely in the case of the Department, where the Department reasonably believes the issue needs to be urgently escalated for resolution), the Department or the Supplier may invoke the following Alternative Dispute Resolution process which will require both Parties to adhere to the following procedure:

(a) either Party may propose to the other in writing that structured negotiations are entered into with the assistance of a neutral adviser or mediator ("Neutral Adviser");

(b) the Neutral Adviser will either be agreed upon by the Parties or, in the absence of agreement, appointed by the President of the Law Society of the Australian Capital Territory;

(c) within fourteen (14) calendar days of the appointment of the Neutral Adviser, the Parties will meet with the Neutral Adviser in order to agree a programme for the exchange of any relevant information and the structure to be adopted for the negotiations;

(d) unless concluded with a written legally binding agreement, all negotiations connected with the dispute will be conducted in confidence and without prejudice to the rights of the Parties in any other proceedings;

(e) the Parties may request the Neutral Adviser to issue written recommendations, and if the Neutral Adviser is willing to make such recommendations and the Parties accept such recommendations or otherwise reach agreement on the resolution of the dispute, such agreement will be reduced to writing and, once it is signed by the authorised representatives of each Party, will be binding on the Parties; and

(f) in the event that the Alternative Dispute Resolution process is initiated in accordance with this Section 9.3 and the Parties fail to reach agreement in the structured negotiations within sixty (60) calendar days of the appointment of the Neutral Adviser (or such other period as may be agreed by the Parties having due regard to the circumstances), either Party may withdraw from the structured negotiations. Any continuing dispute or difference between the Parties may then be referred to the Australian courts.

9.4 Costs

9.4.1 Unless agreed otherwise by the Parties, each Party will bear its own costs and expenses associated with participating in the process set out in Section 9.2 and in the Alternative Dispute Resolution process. Any third party costs, including fees payable to the Neutral Adviser and in relation to the hiring of a venue, will be shared equally by the Parties.

9.5 Special Procedure following a Notice of Termination

9.5.1 If one Party has delivered a notice of Termination to the other Party, the Department representative with overall responsibility for the Agreement and the Supplier's Delivery Manager with overall account responsibility for the Agreement (or a nominee appointed by such persons or the relevant individual holding a similar position) will meet within fourteen (14) calendar days after the date of such delivery of the notice for the purpose of defining the scope of any dispute(s) that may be referred to formal dispute resolution. The officers referred to above may include as attendees at such meeting a reasonable number of business managers and/or legal or other advisors as such officers require to assist in the purpose of such meeting.

9.6 Formal Dispute Resolution

9.6.1 Nothing in this Schedule 7 (**Governance**) will prevent either Party from at any time commencing court proceedings relating to any dispute arising from the Agreement after having notified the other Party in writing of its intention to withdraw from the procedures set out in this Section 9.

ATTACHMENT 7-1

Department Representatives

The following personnel are nominated as the Department Representatives:

Business Executive	Name
	Contact Details
Business Owner	Name
	Contact Details
Contract Manager	Name
	Contact Details
Contract Officer	Name
	Contact Details

ATTACHMENT 7-2

Supplier Representatives

The following personnel are nominated as the Supplier Representatives:

Account Executive/Principal	Name
	Contact Details
Client Lead	Name
	Contact Details
Delivery Manager	Name
	Contact Details
Site Supervisor	Name
	Contact Details

**SCHEDULE 8
CHANGE CONTROL**

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CHANGE CONTROL**1. INTRODUCTION**

- 1.1 The parties agree that, throughout the Term, the process for implementing all Changes will be through the Change Control Procedure set out in this Schedule 8 (**Change Control**), unless otherwise agreed by the parties in writing to the contrary.
- 1.2 This Schedule 8 (**Change Control**) sets out the procedure to be followed in respect of any requests or requirements for any Agreement Change.
- 1.3 This Schedule 8 (**Change Control**) also sets out the scoping process for assessing the impact of proposed Agreement Changes and any other matter relating to the processing and approval or rejection of Agreement Changes.
- 1.4 Unless otherwise expressed in the Agreement, this Change Control Procedure does not apply to changes to Supplier systems, processes or infrastructure which are outside the scope of the Agreement.
- 1.5 In this Schedule 8 (**Change Control**), unless the context otherwise requires, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. GENERAL PRINCIPLES

- 2.1 Either party may initiate a Change Request (the "**Originating Party**"), using a form substantially similar to the Change Control Note ("**CCN**") at Annex 8-1, in accordance with this Section 2.
- 2.2 A Change Request may be withdrawn by the Originating Party at any time before it receives final approval in accordance with the Change Control Procedure.
- 2.3 No Change Request will be legally effective until the CCN is completed and signed by the Parties as a deed of variation in accordance with this Change Control Procedure.
- 2.4 All CCNs will be authorised by an authorised representative of the Originating Party in accordance with the authority levels agreed pursuant to Schedule 7 (**Governance**), who will act as the CCN sponsor throughout the Change Control Procedure.
- 2.5 For all Change Requests, the Supplier is responsible for:
- 2.5.1 assigning a unique number to the CCN; and
- 2.5.2 identifying any related CCNs and, if applicable, recording the relevant related CCN numbers on the CCN currently being processed.
- 2.6 The processing of certain Change Requests and the quality and timeliness of the Supplier's implementation of a Change is the subject of Service Levels and Service Credits as set out in Schedule 6 (**Service Levels and Service Credits**).

3. FEE AMENDMENT AND NON-CHARGEABLE CHANGES

- 3.1 Agreement Changes that go through the Change Control Procedure do not automatically result in an amendment to Service Charges ^{s47C} (Fee

Amendment). All Agreement Changes will be subject to the Fee Review Procedure set out in Annex 8-3 unless they are Non-Chargeable Changes as set out in this Section 3.

3.2 Non-Chargeable Changes

3.2.1 Agreement Changes that the Supplier is required to carry out at its own cost with no increase in the Service Charges ^{s47C} (‘‘Non-Chargeable Changes’’) include:

- (a) Agreement Changes required by any Change in Law which is not a Discriminatory Change in Law;
- (b) Solution Changes;
- (c) any Changes to the Services expressed as not giving rise to any increase in Service Charges ^{s47C};
- (d) Changes to the Services (including changes to the Service Levels and Service Credits) made by the Supplier pursuant to its obligations in relation to improved performance and continuous improvement (including those at **Clause 9.3** of the **Terms and Conditions** and Schedule 6 (**Service Levels and Service Credits**);
- (e) Agreement Changes that are required to remedy an adverse Audit finding resulting from the exercise by the Department of Audit Rights pursuant to Schedule 12 (**Audit Access**);
- (f) Agreement Changes to Supplier Subcontractors made by the Supplier or by the Department requesting the removal of a Supplier Subcontractor on grounds permitted under the Agreement;
- (g) Agreement Changes that are required as part of any Service Levels and Service Credits Default resolution procedure, including those set out in Schedule 6 (**Service Levels and Service Credits**); and
- (h) any Agreement Change in respect of which the costs and expenses associated with the Supplier complying with such Agreement Change are already included in the Service Charges ^{s47C} including where the Supplier is appropriately compensated through increased Service Charges ^{s47C} resulting from increased transaction volumes.

3.3 Fee Amendment Changes

3.3.1 Agreement Changes that may result in an increase in the Service Charges ^{s47C} (‘‘Fee Amendment Changes’’) are:

- (a) New Services, in which case the procedure in Section 6 applies;
- (b) Discriminatory Changes in Law; and
- (c) any other Change which is not a Non-Chargeable Change and which causes a Cost Compensation Event. The Fee Review Procedure set out in Annex 8-3 applies to Fee Amendment Changes which cause a Cost Compensation Event.

- 3.4 In addition, both Fee Amendment Changes and Non-Chargeable Changes will be further assessed via the Fee Review Procedure to establish whether the proposed Change has the potential for a reduction in the Service Charges ^{s47C}

4. PROCESSING OF CCN

4.1 Initiation of Changes

4.1.1 Changes initiated by the Department

- (a) The Department will make a Change Request by submitting to the Supplier a CCN with Part A completed.
- (b) **Non-Chargeable Changes** - as soon as is practicable, but in any event within ten (10) Business Days after receipt by the Supplier of a completed Part A of a CCN from the Department (or such longer period as the parties may otherwise agree), the Supplier must undertake a full assessment of the CCN and complete Part B of the CCN in accordance with Section 4.2 and the provisions of Section 4.3 then apply.
- (c) **Fee Amendment Changes** - prior to processing of each CCN in accordance with Section 4.2, the Supplier must undertake an initial assessment and as soon as practicable (but in any event within ten (10) Business Days after receipt by the Supplier of Part A of a CCN from the Department) provide to the Department an indicative but non-binding proposal (in writing) setting out any one-off charges or changes to the Service Charges ^{s47C} which the Supplier proposes in connection with such Change (an “**Indicative Fee Amendment Proposal**”) together with all appropriate supporting documentation. The Department may:
 - (i) accept or reject the Indicative Fee Amendment Proposal; or
 - (ii) request further information from the Supplier; or
 - (iii) require the Supplier to submit a revised Indicative Fee Amendment Proposal; and
 - (iv) whether or not the Department accepts the Indicative Fee Amendment Proposal or any revised Indicative Fee Amendment Proposal, require the Supplier to complete the processing of the CCN in accordance with Section 4.2.

- 4.1.2 Pursuant to Section 4.1.1(c), Part B of the CCN must be completed by the Supplier as soon as reasonably practicable and, in any event, in accordance with the timeframes agreed with the Department.

4.1.3 Changes initiated by the Supplier

- (a) The Supplier may make a Change Request to the Department by submitting a CCN to the Department.
- (b) Non-Chargeable Changes and Fee Amendment Changes for which the Supplier does not deem it necessary to provide an Indicative Charges Proposal because there is no impact on the Service

Charges ^{s47C} – The Supplier must provide the Department with a CCN with Parts A and B completed (Part B having been processed in accordance with Section 4.2 below). The Department will decide whether to approve the Change Request in accordance with the procedure set out in Section 4.3.

- (c) **All other Fee Amendment Changes** - The Supplier must provide the Department with a CCN with Part A completed together with an Indicative Charges Proposal and all appropriate supporting documentation. The Department may:
- (i) accept or reject the Indicative Charges Proposal;
 - (ii) request further information from the Supplier; or
 - (iii) require the Supplier to submit a revised Indicative Charges Proposal; and
 - (iv) whether or not the Department accepts the Indicative Charges Proposal, or any revised Indicative Charges Proposal, require the Supplier to complete the processing of the CCN in accordance with Section 4.2.

4.1.4 Pursuant to Section 4.1.3(c), Part B of the CCN must be completed by the Supplier as soon as reasonably practicable and, in any event, in accordance with the timeframes agreed with the Department.

4.2 Processing CCN – completion of Part B

4.2.1 The Supplier must undertake a full assessment of the CCN and complete Part B of the CCN in accordance with Section 4.2.

4.2.2 The parties will agree a timeframe for the completion by the Supplier of the processing and completion of Part B of the CCN which, in the absence of agreement by the parties to the contrary, will be a maximum of ten (10) Business Days after the date of receipt of a completed Part A of a CCN from the Department.

4.2.3 In completing Part B of the CCN, the Supplier must provide, at a minimum:

- (a) a description of the Agreement Change and whether the Supplier considers that the Agreement Change is a New Service;
- (b) whether the Supplier considers that the Agreement Change is a Cost Compensation Event so that the Fee Review Procedure is applicable and, if so, give its reasons;
- (c) if the Fee Review Procedure is applicable, the one-off Service Charge ^{s47C} (or one-off refund in the case of a decrease to Service Charges ^{s47C} and/or the on-going adjustment to the Service Charge ^{s47C} resulting from the implementation of such Agreement Change;
- (d) a list of deliverables required for implementing the Agreement Change (cross-referenced to any expected benefits specified in Part

A of the CCN that the Supplier anticipates will be provided by such implementation);

- (e) a timetable for implementation;
- (f) an impact analysis (as more fully described in Annex 8-2);
- (g) any relevant Acceptance Criteria;
- (h) an assessment of the added value of a proposed Change to the Department where the Supplier is the Originating Party for the proposed Agreement Change; and
- (i) full details of any proposed amendments to the Agreement, as required.

4.2.4 The Department will provide the cooperation and information reasonably and necessarily required by the Supplier in order to complete production of the CCN within the agreed time periods.

4.2.5 Prior to submission of the completed CCN to the Department, the Supplier will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, the Supplier will consider the materiality of the proposed Agreement Change in the context both of the Services affected by the proposed Agreement Change and the effect on the Agreement as a whole that may arise from implementation of the proposed Agreement Change. For the avoidance of doubt, such review is not intended to replace an impact analysis.

4.3 Approval of CCN

4.3.1 On receipt of a completed Part B of a CCN from the Supplier, and following the appropriate process of approval by the Department, the Department may:

- (a) approve the Change Request by an authorised representative completing Part C of the CCN and this will suffice as an approval to progress the implementation of the Agreement Change;
- (b) reject the Change Request, giving its written reasons for the rejection; or
- (c) require the Supplier to re-submit its CCN, provided that the Department will provide reasonable detail to the Supplier of the parts of the CCN that do not meet with its approval, or those parts where the Department needs more information to evaluate the Change Request.

4.3.2 No Change to any part of, or otherwise related to, the Agreement can be implemented without the prior written consent of the Department. If the Supplier proceeds with an Agreement Change without the Department's prior written authorisation, such Agreement Change will (subject to Section 4.3.3) be entirely at the Supplier's cost and risk and in no way relieves the Supplier from performing its obligations under the Agreement.

- 4.3.3 The Supplier may proceed with a Change without the Department's prior written consent in emergencies where an immediate risk of loss or damage to either of the parties exists, provided that, in such emergencies, the Supplier must notify the Department immediately after implementation of the Change. The notification must be in the form of a priority CCN with Parts A and B completed after the Change has been implemented, and Part C to be approved by the Department. Where any such Change is not approved by the Department, the Supplier must have regression procedures in place to mitigate any risk and, if requested by the Department, must apply such regression procedures in order to reverse the impact of the Change, should the Department not approve such Change.
- 4.3.4 Disputes about the impact of a proposed Change will be resolved in accordance with the Dispute Resolution Procedure.
- 4.3.5 For any proposed Agreement Changes that require implementation in accordance with acceptance criteria, the proposed Agreement Changes may only be implemented where the parties have agreed the Acceptance Criteria.

5. CHANGES IN LAW

- 5.1 In accordance with **Clause 29** (Regulatory and Legal Compliance) of the **Terms and Conditions**, it is the Supplier's responsibility to adapt to and comply with Changes in Law provided that Discriminatory Changes in Law result in a Fee Amendment Change where the Discriminatory Change in Law is also a Cost Compensation Event.
- 5.2 Each party will notify the other parties of any relevant Changes in Law of which it becomes aware as soon as reasonably practicable after becoming so aware.
- 5.3 In addition to the information required to be given to the Department in connection with a Change in Law, the Supplier must provide the following information to the Department:
- 5.3.1 copies of the relevant documents that describe the proposed Change in Law, including details of the rationale supporting the Supplier's interpretation of any particular Changes in Law (if applicable); and
- 5.3.2 the date on which the Change in Law comes into effect and, if different, the date on which any Changes resulting from such Change in Law are required to be implemented.

6. NEW SERVICES

- 6.1 The Supplier and the Department will agree on:
- 6.1.1 the nature and scope of any New Service, including the Performance Standards for performance (as may be applicable);
- 6.1.2 the related Service Charges §47C and
- 6.1.3 any other pricing (if any), and appropriate amendments to the parts of the Agreement affected (if any).

- 6.2** All pricing negotiations held between the parties for New Services will be conducted in good faith and the Supplier must substantiate to the Department's satisfaction any Service Charge ^{s47C} increase.
- 6.3** Notwithstanding Section 6, the Department may, in its absolute discretion, elect to solicit bids from third parties for the performance of New Services and may contract with a third party for the performance of such New Services or elect to provide in-house resources to handle the New Services.
- 6.4** If the provision of any New Services is awarded to the Supplier, the parties, subject to meeting any relevant Acceptance Criteria, will amend the Services Requirements and any other relevant Schedules and the Terms and Conditions to reflect the New Service, and the New Service will then become part of the Services.
- 7. COSTS**
- 7.1** Unless otherwise agreed by the parties, each party will be responsible for their own costs incurred in the preparation, completion, evaluation, assessment and agreement of all CCNs and in the completion of their obligations described in this Change Control Procedure.
- 8. REPORTS**
- 8.1** The Supplier must administer and maintain comprehensive records of all documentation relating to Changes, including for Change Requests and CCNs regardless of which party was the Originating Party.
- 8.2** In particular, the Supplier must record and track the progress of all CCNs and report the status of CCNs on a Monthly basis or as otherwise agreed between the parties.
- 8.3** On a Monthly basis, the Supplier will monitor and report the status of the implementation of all Changes against the schedules for such implementations agreed between the parties. Such reporting must take place in accordance with Schedule 11 (**Reporting**).
- 9. DISPUTES**
- 9.1** Any dispute as to the adjustment of the Service Charges ^{s47C} or in relation to any Change will be resolved pursuant to the Dispute Resolution Procedure.
- 10. REVIEW OF CHANGE CONTROL PROCEDURE**
- 10.1** As part of the first Annual Review (or earlier if agreed), the parties will review the operation, effectiveness and efficiency of the Change Control Procedure and the Solution Change Procedure and will consider making appropriate changes to improve such procedures. In particular, the parties will consider whether an expedited or "fast-track" Change Control Procedure is required for certain categories of Changes.

ANNEX 8-1

CHANGE CONTROL DEED OF VARIATION TEMPLATE

Initial Notes on completion:

The CCN is the document which formally enacts a material change to the Agreement. Although the CCN requires information relating to business justification for the Change, this should be kept to a minimum and any associated documentation i.e. Mini Business Case (MBC), Project Plan, Cost Model, etc. should be appended where possible.

The detail provided in the CCN must be sufficient to enable a proper update of the existing version of the Agreement by the Department's CM Team. CCNs sent to the Department with insufficient information cannot be incorporated into the Agreement and will be returned to the originator for further detail.

CCN TITLE:	
REFERENCE NUMBER:	
Date change required:	
Version:	
Date of Receipt:	

Name of Originator:	
Contact Numbers:	
Contact Email:	
Name of Substitute:	
Contact Numbers:	
Contact Email:	

PART A: STATEMENT OF CHANGE REQUIREMENTS

This Section contains the necessary supporting documentation, description and rationale for the change. Description should be sufficient to assure the Change Control Manager that sufficient consultation and joint development has occurred between the Department and the Supplier.

NB. Instructions column may be deleted from once CCN is completed.

Ref.	Instruction	Content
A1	<p><i>Brief description of the change requirements including appropriate background, change objectives, timing, key benefits to be realised, key risks and critical success factors.</i></p> <p><i>Details of any consultation / approvals to date between the Supplier and the Department Contract Manager in relation to the proposed change.</i></p>	Background:
A2	<p><i>This section should provide the following:</i></p> <p><i>1] A concise business justification for the change. If the CCN is supported by a Business Case then this should be referred to and attached as an annex to the CCN.</i></p> <p><i>2] A description of the change and the specification of requirements.</i></p>	<p>Description and reasons for the recommended change including appropriate details / specifications:</p> <ol style="list-style-type: none"> Business Justification Change Description
A3	<p><i>Any savings created, value add elements or other benefits which will be facilitated as a result of the CCN. A description of any</i></p>	Cost savings or added value derived from the change:

	<i>potential service improvements or efficiencies which are enabled should also be provided.</i>	
A4	<p><i>Any indirect or consequential costs attributable to the Department which will arise as a result of CCN activity.</i></p> <p><i>NB. Applicable only to CCNs originating with the Supplier.</i></p>	Indirect or consequential costs arising from the Supplier originating CCN:

PART B: SUPPLIER PROPOSAL

This Section contains detail relevant to the Supplier's proposal to meet the change requirements described in Part A, and any impacts arising. It is anticipated that arguments for change are sufficiently defined in Part A, such that the solution can be described in terms of:

- *Financial impact and cost profile*
- *Other impacts*
- *Deliverables*
- *Option analysis*
- *Implementation timetable*
- *Risks and mitigation*
- *Readiness criteria and governance procedures which embed change*
- *Specific amendments to the Agreement*

Completed Part B must be provided by the Supplier within five (5) Business Days of receipt of otherwise agreed with the Department

Ref.	Instruction	Content
B1	<p><i>Detail on whether the change is likely to change Service Charges ^{s47C} or can be delivered without any cost to the ^{s47C} Department (Non-Chargeable).</i></p> <p><i>In the event that a change is likely to result in a Fee Amendment, a full cost breakdown must be provided to facilitate any changes necessary to the master Cost Models. This should include a clear breakdown of year on year cost and saving projections. Itemised in the change template.</i></p>	Financial Impact:

B2	<i>Detail on any technical, operational, commercial, financial, customer service, etc. Impacts which might occur as a result of the change requirement.</i>	Impacts:
B3	<i>Outline of any outputs arising from the change e.g. new products or services to be delivered by the Supplier.</i>	Deliverables:
B4	<i>An outline of <u>all possible options</u> which have been considered by the Supplier as a means of enacting the Department change requirements should be provided.</i> <i>This should include the rationale for the selection of the preferred option, and a cost benefit analysis of each option considered.</i>	Option Analysis of Solutions:
B5	<i>An outline of the proposed timetable for implementing the change requirement. The timetable should include time for approvals and any dependencies or risks impacting on implementation of the changes and the CCN.</i> <i>Where necessary, this should be supported by a Project Plan.</i>	Timetable:
B6	<i>Detail of risks identified by the Supplier in relation to the proposed change.</i> <i>Detail should also be provided on how the identified risks will be treated via appropriate mitigation strategies.</i>	Risks and mitigation:
B7	<i>This section should detail any governance processes or procedures which the Department need to undertake in order to enable the embedding of change (for example, signing of weigh-bills or receipts to certify delivery and trigger invoice events).</i>	Governance criteria and enablers:
B8	<i><u>All</u> amendments to the Agreement which are necessitated by the required change must be captured in the CCN.</i> <i>It is insufficient and inadequate to simply state which Schedule is impacted by the change. The location reference in the current version of the Agreement must be sufficiently</i>	Agreement Amendments: The parties propose / have agreed to insert the following amendments to Agreement version [xxxx] at [<i>explicit ref. to T & Cs or Schedules to be revised, sub-sections and page numbers</i>], <u>and</u> a marked up copy of that / those Schedule(s), or a complete excerpt of that / those Schedule(s), where an amendment is proposed/agreed is

	<p><i>detailed down to page number level (eg. Clauses a, b, d, f, of Schedule Z, at pages x,y,z....).</i></p> <p><i>The status of <u>EACH</u> amendment must be clearly stated – e.g. “agreed” or “proposed by the Supplier”. Where amendments are proposed or agreed, a marked up version of each Schedule must be annexed to the CCN where changes are comprehensive and have a wide impact on existing Schedules, or will be embedded in the CCN amendments box.</i></p> <p><i>It must be made clear whether or not something is being removed, re-worded or replaced. If a part of the contract is being replaced, it must be made clear which part is being replaced, and what is replacing it.</i></p> <p><i>Where the document is not a word document – e.g. Excel or other, then the revision detail must be highlighted to enable clear identification by the Department.</i></p>	hereby attached or embedded.
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PART C: THE DEPARTMENT'S COMMERCIAL ANALYSIS

In this Section the Contract Manager will assess the Supplier solution for commercial impact highlighting any residual risks, further actions to complete and the resulting impact on the Agreement.

Name:	Area of analysis:	Date Due:
Analysis:		
Recommendation:		

PART D: AUTHORITY TO PROCEED

Authority to proceed can only be given when the responsible body has approved the CCN. This is dependent on the cost of the change and is likely to be the Business Owner. You must allow sufficient time for the approval process. Consult the Contract Manager for advice.

Name of authorising officer for the Department:	Role:	Date:
Signature:		
Name of authorising officer for the Supplier:	Role:	Date:
Signature:		

ANNEX 8-2**IMPACT ANALYSIS****1. IMPACT ANALYSIS**

- 1.1** The purpose of the impact analysis is to provide a context for a discussion around the approval and implementation of the proposed Agreement Change.
- 1.2** The impact analysis will consider the material effect of any proposed Agreement Change on any existing Services, other than the aspects of the Services expressly covered by the proposed Agreement Change, on any other relevant services provided by the department or a third party and on any aspect of the Exit Plan and of the Business Continuity Plan. The impact analysis on the Services will include examining all potential dependencies and knock-on effects which may result from the proposed Agreement Change and affect any part of the Services, so that these may be taken into account as part of the overall Change Control Procedure for approval or rejection of the CCN. If the proposed Agreement Change has no such impact, a “no impact” statement will be made.
- 1.3** The impact analysis will consider the impact of the proposed Change with the following parameters taken into account:
- 1.3.1 scope of the Agreement;
 - 1.3.2 whether the proposed Change is a New Service;
 - 1.3.3 Performance Standards;
 - 1.3.4 s47C
 - 1.3.5 delivery dates;
 - 1.3.6 Acceptance Criteria;
 - 1.3.7 the Business Continuity Plan;
 - 1.3.8 the development and evolution of the Infrastructure System;
 - 1.3.9 the Risk Management Plan;
 - 1.3.10 the Exit Plan;
 - 1.3.11 the Department's policies;
 - 1.3.12 infrastructure requirements including new Assets and/or Software;
 - 1.3.13 Supplier Subcontracts;
 - 1.3.14 a risk assessment;
 - 1.3.15 resources, including Supplier Personnel and the Department's resources;
 - 1.3.16 benefits to the Department; and

- 1.3.17 any other matter reasonably requested by the Department at the time of the impact analysis or reasonably considered by the Supplier to be relevant.
- 1.4 The parameters in Section 1.3 of this **Annex 8-2** must be considered in such a way that the impact analysis will, at a minimum, clearly show the impact on the Service Charges ^{s47C} where the Fee Amendment Review Procedure applies), the Performance Standards, the Services and any other relevant matter covered by the Agreement. The resulting impact analysis will confirm the authority level required to authorise the Change.
- 1.5 The parties acknowledge that the above is not an exhaustive list. There may be more factors to consider in the context of a particular Change and some of the factors described above may not be relevant to every Change.

ANNEX 8-3**FEE REVIEW PROCEDURE****1. INTRODUCTION**

- 1.1** Except for New Services, the Fee Review Procedure is the only process by which the Service Charges ^{s47C} may be modified.
- 1.2** Where the Fee Review Procedure applies, this Annex 8-3 will apply, provided always that there will be no increase in the Service Charges ^{s47C} unless the Agreement Change causes a Cost Compensation Event, as described in Section 2.2 of this Annex 8-3.
- 1.3** All information provided by the Supplier under the Fee Review Procedure and any negotiations held between the parties as to the financial impact of a Fee Amendment Change will be on an open book basis.
- 1.4** Service Charges ^{s47C} may be decreased or increased pursuant to the Fee Review Procedure. Such decrease or increase must reflect the material and demonstrable change to the cost to the Supplier of performing the Services or achieving the Performance Standards, where the Supplier has used Commercially Reasonable Efforts to mitigate the effect of the Agreement Change and to minimise its costs of implementing the Agreement Change.

2. INCREASE IN SERVICE CHARGES ^{s47C}

- 2.1** Where the Supplier is requesting an increase to the Service Charges ^{s47C} as a result of the Agreement Change, the Supplier must:
- 2.1.1** provide an analysis of the reasons that the Supplier believes its costs will be materially impacted by the proposed Agreement Change and any supporting documentation;
- 2.1.2** provide reasonable evidence that the Supplier is performing efficiently and that it has reviewed any reasonable alternatives to accommodate the Agreement Change without adjusting or increasing the Service Charges ^{s47C} including, wherever possible, utilising any capacity of the existing Supplier Personnel;
- 2.1.3** provide details of proposed one-off charges and/or changes to the on-going Service Charges ^{s47C} based upon the above;
- 2.1.4** provide details of any adverse impact on the Services or the Performance Standards to accommodate the requested Agreement Change without adjusting or increasing the Service Charges ^{s47C} and
- 2.1.5** provide, on an open book basis, any other relevant information, including information justifying any proposed one-off charges or changes to the Service Charges ^{s47C} and any base data and charging assumptions required by the Department to verify such proposed changes.

2.2 ^{s47C}

s47C

3. DECREASE IN SERVICE CHARGES s47C

- 3.1** Where there is a decrease in the Service Charges s47C the Supplier must detail the reduction, providing reasonable supporting documentation (on an open book basis) sufficient for the Department to assess the proposed decrease.

4. REVIEW AND APPROVAL

- 4.1** The outcome of the Fee Review Procedure, including the information specified in Sections 2 and 3 of this Annex 8-3, must be communicated to the Department as part of the completed Part B of the CCN and is deemed to form part of the Supplier's formal proposal for the Agreement Change set out in that Part B.

- 4.2** The Department will review the notification and, following such review, will either:

- 4.2.1 accept or reject the Supplier's proposal;
- 4.2.2 request amendment to the notification providing reasonable details of the items in the notification that the Department rejects; or
- 4.2.3 request more information from the Supplier as may be reasonably required by the department to review the notification.

At the Department's request, the Supplier will resubmit its proposal with amendments as discussed between the parties.

- 4.3** Any agreed one-off charge, ongoing separate charges or adjustment to the Service Charges s47C will be subject to the approval of a duly authorised person from each party.

ANNEX 8-4 SOLUTION CHANGE PROCEDURE

1. SOLUTION CHANGES

- 1.1 The Solution Change Procedure described in this Annex 8-4 applies to any change to the Supplier's Solution that does not result from an Agreement Change and which continues to meet the Services Requirements (a "**Solution Change**").
- 1.2 For the avoidance of doubt, the following circumstances are deemed to not be Solution Changes (and, accordingly, will be agreed through the Change Control Procedure or other procedure stated in the Agreement to apply to the particular change):
- 1.2.1 a change to the Supplier's Solution which results from an Agreement Change;
 - 1.2.2 a change to the Supplier's Solution which results in the Supplier's Solution not meeting the Services Requirements;
 - 1.2.3 a change to the Supplier's Solution which changes the Service Charges s47C (if any);
 - 1.2.4 a change to the location of a Service Centre;
 - 1.2.5 a change to the Roll-Out Schedule;
 - 1.2.6 the removal or replacement of a Material Subcontractor;
 - 1.2.7 a change to the Supplier Personnel approved to fill a Key Position; or
 - 1.2.8 any other change which is expressed in the Agreement to be subject to the Change Control Procedure.

2. THE PROCEDURE

- 2.1 Except in the circumstances referred to in Section 2.4, the Supplier may implement Solution Changes without the prior consent of the Department, provided that the procedure in Sections 2.2 and 2.3 is complied with.
- 2.2 Where reasonably practicable, the Supplier must, through the weekly Operational Meetings held in accordance with Schedule 7 (**Governance**), notify the Department of any proposed Solution Change before implementing such Solution Change. If such advance notice is not reasonably practicable, the Supplier must notify the Department's Contract Officer as soon as reasonably practicable after the implementation of such Solution Change.
- 2.3 After the Supplier has given notification pursuant to Section 2.2, the parties will discuss the nature and effect of such Solution Change and the Supplier must adopt any reasonable recommendations made by the Department.
- 2.4 The Supplier must not implement a Solution Change without obtaining the prior written consent of the Department's Contract Officer if:
- 2.4.1 the Supplier has any reasonable doubt that a Solution Change will not meet the Services Requirements;

- 2.4.2 such Solution Change adversely affects the Department's ability to exit from the Agreement on a Termination by hindering or increasing the cost to the Department of (a) performing the Removed Services itself; or (b) receiving the benefit of services similar to the Removed Services from a Successor Supplier. Such Solution Changes include:
- (a) the introduction of a new Supplier Subcontractor for which the Supplier is not able to negotiate the right for the Department or a Successor Supplier to take the assignment or novation of the Supplier Subcontract on a Termination;
 - (b) the use of an Asset which is not exclusively dedicated to the fulfilment of the Services Requirements;
 - (c) the introduction of new Third Party Software for which the Supplier cannot obtain an appropriate IPR Transfer Right or for which the licence fee is greater than for the Software that is being replaced; and
 - (d) the introduction of Supplier Software to replace Third Party Software;
- 2.4.3 such Solution Change affects the security of the Service Centres, the Department, Department Data or Client Data;
- 2.4.4 such Solution Change is a material or significant change to the Supplier's Solution;
- 2.4.5 such Solution Change restricts or limits the ability of the Supplier Solution to be flexible to meet the future requirements of the Department;
- 2.4.6 such Solution Change diminishes the quality or scope of the Services provided to Clients or has an adverse effect on the Supplier's performance as measured against the Service Levels and Service Credits;
- 2.4.7 such Solution Change changes any part of the Supplier's Solution for which the Supplier was required to obtain the Department's approval or consent. Such a Solution Change includes, for example, a change to any aspect of the Suppliers Solution which formed part of the Readiness Criteria during Transition;
- 2.4.8 such Solution Change has an effect on the day-to-day operations of the Department or changes the way in which the Department interacts or interfaces with the Supplier;
- 2.4.9 the Agreement expressly states that such Solution Change requires the Department's approval or consent; and
- 2.4.10 the effect of the Solution Change is such that it is reasonable to conclude that the Department should be notified and consulted about such Change before it is implemented.

3. ANNUAL REVIEW OF SOLUTION CHANGES

- 3.1 As part of the Annual Review, and in accordance with **Clause 5** of the **Terms and Conditions**, the parties will conduct a review of the Supplier's Solution to ensure that the Supplier's Solution continues to meet and fulfil the Services Requirements. If



such review establishes that the Supplier's Solution fails to meet and fulfil the Services Requirements, the procedure in Section 4 of this **Annex 8-4** applies.

4. NON-COMPLIANT SOLUTION CHANGES

4.1 If, as part of the Annual Review process or otherwise, it is established that:

- 4.1.1 as a result of a Solution Change implemented by the Supplier, the Supplier's Solution fails to meet and fulfil the Services Requirements; or
- 4.1.2 the Supplier has implemented a Solution Change without the prior written consent of the Department in circumstances which, in accordance with Section 2.4 above, required the Supplier to obtain such consent,

then, at the Department's option, the Supplier must either:

- 4.1.3 implement changes to the Supplier's Solution as necessary to meet and fulfil the Services Requirements (with no change to the Service Charges ^{s47C}  or 
- 4.1.4 apply such regression procedures as necessary in order to reverse the implementation and impact of the Solution Change.

SCHEDULE 9
HUMAN RESOURCE MANAGEMENT

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HUMAN RESOURCE MANAGEMENT**1. INTRODUCTION**

- 1.1** This Schedule 9 (**Human Resource Management**) sets out the Department's requirements governing the engagement, training, retention and appointment of Supplier Personnel, the Supplier's obligations concerning Key Positions and Supplier Subcontractors and any Material Subcontractors.
- 1.2** In this Schedule 9 (**Human Resource Management**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).
- 1.3** This Schedule 9 (**Human Resource Management**) comprises of three main parts, namely:
- **Part A** which sets out the **Supplier Personnel Requirements**;
 - **Part B** which sets out the **Subcontractor and Material Subcontract Requirements**; and
 - **Part C - Annexures**

2. PART A - SUPPLIER PERSONNEL REQUIREMENTS

- 2.1** The Supplier must use an adequate number of Supplier Personnel to fulfil the Services Requirements, and must ensure that all Supplier Personnel who perform the Services are properly trained, experienced, competent and capable of meeting the requirements of the tasks assigned to them in a professional and timely manner and to a standard acceptable to the Department.
- 2.2** The Department has absolute discretion to approve or reject any Supplier Personnel (or people under consideration to be Supplier Personnel) nominated by the Supplier to perform any Services under the Agreement. The Department may request a list of Supplier Personnel (or people under consideration to be Supplier Personnel) nominated by the Supplier and may approve or reject them. The Supplier must not use any Supplier Personnel that have been rejected by the Department to perform any Services under the Agreement. Where specified by the Department, the Supplier may be required to use only Supplier Personnel that have been approved by the Department in accordance with this Section 2.2 to perform Services under the Agreement.
- 2.3** The Supplier must notify the Department immediately upon identification of a need for movement or rotation of Supplier Personnel that may have an adverse effect on the performance of the Services. The Supplier must notify the Department of the movement of any person in a Key Position. The Supplier must demonstrate in advance how it will continue to meet Services Requirements in accordance with Section 2.1.
- 2.4** The Supplier must ensure that Supplier Personnel are trained, qualified, skilled and instructed in respect of their relevant positions and, in particular, in relation to:
- 2.4.1** their duties and the relevant compliance issues pertaining to those duties under the Agreement;

- 2.4.2 the Service Levels which are of particular relevance to them in carrying out their duties; and
- 2.4.3 the need to observe standards of integrity, courtesy, consideration, equality and diversity in the performance of their duties in accordance with Good Industry Practice.
- 2.5** The Supplier must ensure that all Supplier Personnel comply with:
- 2.5.1 any applicable Commonwealth and Department Policies notified to the Supplier or for which the Supplier ought reasonably to know, which include any health or safety requirements, building access and security procedures and Department Policies relating to conduct of personnel admitted to the Supplier Facilities; and
- 2.5.2 any applicable obligations of the Supplier under the Agreement in respect of Confidential Information and data security,
- in accordance with Schedule 13 (**Applicable Requirements**).
- 2.6** All Supplier Personnel engaged in positions which require them to speak to Clients or to read, understand, interpret or input Client Data must be appropriately skilled in the English language and the predominant language(s) to the level required to allow them to carry out their duties.
- 2.7** The Supplier must comply with Schedule 3 (**Security**) in respect of all Supplier Personnel and ensure that all Supplier Personnel comply with the requirements of Schedule 3 (**Security**). The Supplier must pay for all costs associated with its compliance with Schedule 3 (**Security**) in respect of all Supplier Personnel.
- 2.8** The Supplier must ensure that all of the Supplier Personnel have at all times the legal right to work in the relevant Country where they are performing Services in the fulfilment of the Services Requirements and the Supplier must retain records verifying compliance with all such relevant Laws (including, if necessary, appropriate visas and/or work permits).
- 3. SUPPLIER PERSONNEL RETENTION**
- 3.1** The Supplier agrees that it is in its best interests and essential for the fulfilment of the Services Requirements in accordance with the Performance Standards to ensure the continuity of Supplier Personnel. Accordingly, the Supplier must use Commercially Reasonable Efforts to minimise the Turnover Rate of Supplier Personnel.
- 3.2** The Supplier must, when requested by the Department, provide reports on the Turnover Rate of Supplier Personnel by grade of staff and location. The Supplier must keep the Turnover Rate to a reasonable level, having regard to local conditions.
- 4. REPLACEMENT PERSONNEL**
- 4.1** The Department may at any time notify the Supplier that it requires the Supplier to remove and replace any Supplier Personnel, stating the reasons for the requirement, unless the Department cannot reveal the reasons due to security or confidentiality requirements.

- 4.2** If the Department notifies the Supplier in accordance with Section 4.1, the following procedure will apply:
- 4.2.1 if the reason for the request is due to:
- (a) a breach of Law or a breach of applicable Commonwealth and Department Policies by that Supplier Personnel;
 - (b) a breach of security, confidentiality or privacy requirements under the Agreement;
 - (c) that member of the Supplier Personnel being a threat to the health, safety or security of any Client or Department Personnel, Department Data or Department Assets;
 - (d) that member of the Supplier Personnel not performing competently or performing in a way disruptive to the Department's business; or
 - (e) serious misconduct by that Supplier Personnel,
- unless otherwise required by the Department in the notice, the Supplier must immediately remove that Supplier Personnel from being involved in the fulfilment of the Services Requirements; and
- 4.2.2 in any other case, or in relation to Section 4.2.1, where required by the Department in the notice:
- (a) within two (2) Business Days after receipt of the notice, the Supplier must investigate the reasons stated in the notice, consult with the Department to discuss its findings (including any ramifications of replacing the person) and attempt to resolve any problems with the person; and
 - (b) if the Department still requires the replacement of the person after the Supplier has consulted with the Department, the Supplier must promptly replace that Supplier Personnel.
- 4.3** If the Supplier is required to replace Supplier Personnel in accordance with this Section 4, it must:
- 4.3.1 fill the vacated position with another person with suitable training, experience and skills to meet the requirements of the assigned tasks; and
- 4.3.2 ensure that it immediately withdraws any access the person being replaced may have to the Department Data, Client Data, Infrastructure Systems and the Department Facilities.
- 4.4** Nothing in the Agreement grants the Department the right to require the Supplier to terminate any individual's employment or engagement with the Supplier or any Supplier Subcontractor.
- 4.5** The replacement of Supplier Personnel in accordance with this Schedule 9 (**Human Resource Management**) will be made at the Supplier's cost. To avoid doubt, the Supplier is not entitled to increase the Service Charges ^{s47C} as a result of any replacement of Supplier Personnel.

5. KEY POSITIONS

5.1 The list of Key Positions and the Supplier Personnel approved by the Department to fill the Key Positions at the Effective Date are specified in Annex 9-1.

5.2 The Parties may agree new Key Positions from time to time but only in accordance with the procedure set out in Section 5.4.

5.3 The Supplier must:

5.3.1 ensure that:

(a) each person in a Key Position spends an appropriate amount of time and effort to enable them to discharge their duties in the Key Position; and

(b) as far as possible, the Key Positions are filled at all times;

5.3.2 only use the Supplier Personnel approved by the Department in accordance with the procedure set out in Section 5.4 to fill or replace someone in a Key Position;

5.3.3 not replace a person in a Key Position unless the Supplier has complied with that procedure set out in Section 5.4; and

5.3.4 promptly notify the Department if any person in a Key Position becomes unable to spend the amount of time and effort required to enable them to carry out their duties in fulfilling the Services Requirements or gives notice of the termination of their employment or engagement.

5.4 Before appointing or replacing a person in a Key Position, whether as an initial or subsequent appointment, the Supplier must:

5.4.1 notify the Department of the proposed appointment (if possible, at least twenty (20) Business Days prior to the proposed appointment);

5.4.2 if required by the Department, provide the Department with a resume and other information about the individual reasonably requested by the Department;

5.4.3 if the Department in good faith objects to the proposed appointment, attempt to resolve the Department's concerns; and

5.4.4 if the Parties are unable to resolve the Department's concerns within five (5) Business Days, not appoint the individual to that position and propose to the Department the appointment of another individual of suitable ability and qualifications, whose approval will be subject to the same process as set out in this Section 5.

6. PART B – SUBCONTRACTORS AND MATERIAL SUBCONTRACTORS

6.1 This Part B of this Schedule 9 (**Human Resource Management**) sets out the provisions regarding the Supplier's ability to appoint and change Supplier Subcontractors, the approval by the Department of Material Subcontractors and the requirements of any Material Subcontract.

6.2 Section 7 of this Schedule 9 (**Human Resource Management**) applies to all Supplier Subcontractors. In addition, Section 8 applies to Material Subcontractors. The provisions of Part B of this Schedule 9 (**Human Resource Management**) are subject to **Clause 26.2** of **Terms and Conditions**.

6.3 The objectives of this Part B are to ensure that:

6.3.1 the Supplier retains the overall responsibility for fulfilling the Service Requirements, in accordance with Sections 7.1 and 7.3 notwithstanding any subcontracting to Supplier Subcontractors;

6.3.2 appropriate terms of the Agreement are flowed-down to Supplier Subcontracts in accordance with Sections 7.2 and 8.2;

6.3.3 the Department may require the Supplier to remove Supplier Subcontractors in accordance with Section 7.4; and

6.3.4 the Department's prior consent is sought before a Material Subcontractor is appointed or removed by the Supplier in accordance with Section 8.

7. SUPPLIER SUBCONTRACTORS

7.1 Supplier Subcontracts

7.1.1 The Supplier must only use subcontractors that have been approved by the Department in accordance with **Clause 26.2** of the **Terms and Conditions** to provide the Services.

7.1.2 In accordance with **Clause 26.1** of the **Terms and Conditions**, by the Effective Date, the Supplier must provide a list to the Department of the Supplier Subcontractors, and except for the Subcontractors that have already been approved by the Department, the Department may approve or reject them.

7.1.3 At the request of the Department, but not more than once in each six (6) month period, the Supplier must provide the Department with a list of the Supplier Subcontracts together with a summary of key terms in each Supplier Subcontracts which must include, as a minimum, the Subcontract Flow-Down Provisions. If such summary does not provide the level of detail to satisfy the Department, the Department may request, and the Supplier must provide to the Department, a copy of a Supplier Subcontract.

7.1.4 The Supplier remains liable at all times for any and all acts or omissions of the Supplier Subcontractors (including Material Subcontractors) arising out of or in connection with the Agreement.

7.1.5 The Supplier must inform the Supplier Subcontractors that their participation in performing all or part of the Services may be publicly disclosed.

7.2 Supplier Subcontractor flow down

7.2.1 The Supplier must use Commercially Reasonable Efforts to ensure that each Supplier Subcontract imposes on that Supplier Subcontractor:

- (a) the terms, conditions and obligations of the Agreement as they apply to the Supplier and the Supplier Personnel that are relevant to the performance by that the Supplier Subcontractor of its obligations to the Supplier;
- (b) a requirement to comply with Department guidelines and Commonwealth and Department Policies that are relevant to the Supplier Subcontractor's fulfilment of the Services Requirements or apply in relation to the Supplier Subcontractor's access to or use of Confidential Information, the Department Data, Client Data or Department Facilities, Department Assets and Department Material, including:
 - (i) the security policies and standards of the Agreement including Schedule 3 (**Security**) and the Department Security Policy and Standards, as they apply to the Supplier;
 - (ii) any regulatory requirements (including rights of access and audit) which may apply to the Supplier Personnel in the fulfilment of the Services Requirements, including Schedule 12 (**Audit Access**);
 - (iii) appropriate rights and obligations in respect of data protection and confidentiality;
- (c) the right for the Department (and, where possible, a Successor Supplier) to take an assignment or novation of the Supplier Subcontract (or part of the Supplier Subcontract, where relevant), on a Termination or Services Removal for any reason (a "Subcontract Transfer Right");
- (d) obligations in relation to the ownership and licensing of Intellectual Property Rights provided or created by the Supplier Subcontractor under the Supplier Subcontract to meet the requirements of **clause 28** of the **Terms and Conditions**; and
- (e) an indemnity in favour of the Department in respect of any Claim by any employee, worker or agent of the Supplier Subcontractor that he or she has an employment relationship with the Department

(together, the "**Subcontract Flow-Down Provisions**").

- 7.2.2 The Supplier must, as soon as is reasonably practicable, and before a Supplier Subcontract is executed, notify the Department of any proposed Supplier Subcontract that refuses to agree to any of the Subcontract Flow-Down Provisions. The Supplier must also notify the Department, as soon as is reasonably practicable, of any amendment to an existing Supplier Subcontract which materially affects a Subcontract Flow-Down Provision. In each case, but subject to Section 7.2.3 where a Subcontract Transfer Right is concerned, the Parties will discuss the implications of such Supplier Subcontract not having a relevant Subcontract Flow-Down Provision and will agree, acting in good faith, the appropriate action (if any) to be taken to avoid or minimise the effects of such omission.

- 7.2.3 If the proposed Supplier Subcontractor refuses to grant a Subcontract Transfer Right or requires an additional fee for the granting of a Subcontract Transfer Right, the Supplier must notify the Department and the Department will, at its option, either:
- (a) require the Supplier to agree to such Subcontract Transfer Right, in which case the Department will pay the fee levied by the Subcontractor, provided that the Supplier has used its Commercially Reasonable Efforts to reduce such fee;
 - (b) agree with the Supplier a commercially reasonable workaround, which may include the Supplier using an alternative Subcontractor; or
 - (c) waive the obligation to obtain a Subcontract Transfer Right.
- 7.2.4 The Supplier must promptly notify the Department if the Supplier Subcontractor requests a change to the Supplier Subcontract that affects the Subcontract Flow-Down Provisions and must obtain the Supplier's prior approval prior to varying the Supplier Subcontract in a way that affects the Subcontract Flow-Down Provisions.
- 7.2.5 The Supplier must not insert any express contractual provisions into any Supplier Subcontract which would prevent a Supplier Subcontractor contracting directly with the Department or a Successor Supplier.

7.3 Ability of Supplier Subcontractor to perform

- 7.3.1 The Supplier must immediately notify the Department if the Supplier has doubts concerning a Supplier Subcontractor's ability to perform the Services in fulfilment of the Services Requirements, including:
- (a) on account of changes in such Supplier Subcontractor's ownership, management, financial condition or otherwise;
 - (b) where the Supplier Subcontractor fails to meet any Performance Standards;
 - (c) where there have been material representations by the Supplier Subcontractors or concerning the Supplier Subcontractor's ability to perform the Services; or
 - (d) the Supplier believes, in its reasonable judgement, that the Supplier Subcontractor (or its personnel) is a threat to the health, safety or security of the Department (or Department Personnel) or Clients.
- 7.3.2 The Supplier must:
- (a) immediately notify the Department if an act or omission of a Supplier Subcontractor (including a Material Subcontractor) causes a problem or delay that has a material impact on the Supplier's ability to fulfil the Services Requirements; and
 - (b) implement plans to circumvent any such problem or delay including taking into account the Department's comments.

7.4 Replacement of Supplier Subcontractors

7.4.1 If the Department has reasonable grounds for concern about the performance of any Supplier Subcontractor, the following procedure applies:

- (a) the Department will notify the Supplier of such concerns, stating its reasons unless the Department Contract Manager reasonably determines that such reasons should not be provided;
- (b) the Supplier has five (5) Business Days or such other reasonable period as the Parties agree in which to investigate matters stated in the notice and discuss its findings with the Department; and
- (c) following such discussion, if the Department is not satisfied and has reasonable grounds to require the replacement of the Supplier Subcontractor the Supplier must, in accordance with a Supplier Subcontractor Transfer Plan approved by the Department cease using the Supplier Subcontractor to provide the Supplier's Solution. The Supplier Subcontract Transfer Plan will include a reasonable timetable and allow for the efficient and timely transfer of the aspect of the Supplier's Solution performed by the Supplier Subcontractor. The Supplier must implement the Supplier Subcontract Transfer Plan and ensure that the Services Requirements continue to be fulfilled.

7.4.2 For the avoidance of doubt, the Department will not have the right under this Section 7.4 to require the Supplier, or any Supplier Subcontractor, to terminate a member of the Supplier Personnel's employment. However, the member of the Supplier Personnel should be removed from providing the Services under the Agreement.

7.5 Management of Supplier Subcontractors

7.5.1 The Parties' rights and responsibilities with respect to the management and governance of Supplier Subcontractors are set out in Schedule 7 (**Governance**).

8. MATERIAL SUBCONTRACTORS

8.1 Approval of Material Subcontractors

8.1.1 Subject to clause 19.1 of the **Terms and Conditions**, the Parties agree that the Supplier Subcontractors listed and described as such in Annex 9-2 to this Schedule 9 (**Human Resource Management**) are approved by the Department as Material Subcontractors. The requirements set out in this Section 8 apply to Material Subcontractors in addition to those set out in Section 7.

8.1.2 Except for the Material Subcontractors identified in Section 8.1.1 above, the Supplier must obtain the Department's prior written approval (which the Department will not unreasonably withhold or delay) to appoint any Material Subcontractor during the Term. The Supplier must submit to the Department a request for such consent which specifies:

- (a) the components of the Supplier's Solution that the Supplier proposes to subcontract and the scope of the proposed Supplier Subcontract;

- (b) the nature of the contract between the Supplier and the proposed Material Subcontractor, including any terms and conditions material to, or inconsistent with, the terms and conditions of the Agreement, and to the extent that there is an inconsistency, how the Supplier proposes to manage this;
 - (c) information on the Supplier's selection process and reason for selecting the proposed Material Subcontractor including the identity, background and qualifications of the proposed Material Subcontractor;
 - (d) the way in which the Supplier proposes to manage a new Material Subcontractor, including the relevant contractual clauses in the Supplier Subcontract dealing with this; and
 - (e) the termination provisions including, in particular, whether the Material Subcontractor's termination rights are wider than the Supplier's under the Agreement.
- 8.1.3 Prior to appointing any Material Subcontractor, and as part of the Department's approvals process for such appointment, the Parties will consider whether the Department:
- (a) has any doubts concerning: a proposed Material Subcontractor's ability to undertake the Services Requirements to be subcontracted under the proposed Material Subcontract; the Material Subcontractor's ownership, management, financial condition or otherwise; a material misrepresentations by or concerning such Material Subcontractor's ability; and/or
 - (b) believes, in its reasonable judgement, that the proposed Material Subcontractor (or its personnel) is a threat to the health, safety or security of the Department, the Department Personnel or Clients.
- 8.1.4 The provisions of this Section 8.1 apply to any replacement or removal of any Material Subcontractor.
- 8.1.5 If a Supplier Subcontractor is reclassified as a Material Subcontractor during the Term, the Supplier must seek the Department's prior written approval in accordance with Section 8.1.2 and enter into a Material Subcontract in accordance with Section 8.2, or vary the existing Supplier Subcontract so that it meets the requirements of a Material Subcontract.

8.2 Provisions in relation to Material Subcontractors

- 8.2.1 Subject always to Section 8.1, the Supplier must ensure that (unless otherwise agreed in writing between the Department and the Supplier) each Material Subcontract used exclusively in the fulfilment of the Services Requirements contains back-to-back provisions with the Agreement in order to ensure that each Material Subcontract embodies and contains the key terms of the Agreement including, in particular:
- (a) the Subcontract Flow-Down Provisions;

- (b) Service Levels and Service Credits no less onerous than the equivalent Performance Standards in the Agreement;
 - (c) the right of termination for convenience by the Supplier on three (3) months' notice for each Material Subcontract (to enable the Supplier to terminate the Material Subcontract in circumstances of a Termination for Convenience);
 - (d) the right of the Department (and, where possible, a Successor Supplier) to take an assignment or novation of the Material Subcontract (or part of the Material Subcontract, where relevant), on a Termination or Services Removal for any reason;
 - (e) obligations no less onerous than those contained in the Agreement in respect of confidentiality, privacy, data security, data protection, audit and rights of access and Intellectual Property Rights;
 - (f) no right to subcontract, novate or assign the Material Subcontractor's rights or transfer its obligations without seeking the Supplier's and the Department's prior consent;
 - (g) a representation that the Material Subcontractor is the employer of its employees and has not subcontracted them; and
 - (h) an acknowledgement that there is not relationship of employment, agency or partnership between the Department and the Material Subcontractor, its officers, employees, agents and contractors.
- 8.2.2 The Supplier must ensure that each Material Subcontractor (in terms reasonably acceptable to the Department) indemnifies the Department against any Losses arising as a result of any decision of any competent statutory, legal or regulatory authority that the Department is the employer of Material Subcontractor, its officers, employees, agents and contractors. The Supplier must use Commercially Reasonable Efforts to ensure that the Department is named as a third party beneficiary under the terms of each Material Subcontract and that a term is expressly included that provides that:
- (a) where permitted by the applicable Law, the Department has the right to enforce any term of the Material Subcontract; and
 - (b) the Supplier and the Material Subcontractor may not agree to rescind or vary such Material Subcontract without obtaining the prior written consent of the Department.
- 8.2.3 The Supplier must provide the Department with a copy of the proposed Material Subcontract to enable the Department to verify that its requirements in relation to Material Subcontracts have been met and, if requested by the Department, permit the Department to participate in negotiations with the proposed Material Subcontractor.
- 8.2.4 The Supplier must notify the Department of any change affecting the Material Subcontract or Material Subcontractor which may have a material impact on the fulfilment of the Services Requirements, together with all reasonable information to enable the Department to consider the likely

impact of the change, and the Parties will discuss and seek to agree ways in which any adverse impact may be minimised.

- 8.2.5 The Supplier must not terminate any Material Subcontract, or allow it to expire without renewal, without having first consulted with the Department and discussed the Supplier Subcontract Transfer Plans, and any potential impact on the fulfilment of the Services Requirements should be considered in accordance with the Change Control Procedures. For this purpose, the Supplier must notify the Department at least six (6) months before a Material Subcontract is due to expire. Unless otherwise agreed by the Department, the termination, renewal or replacement of a Material Subcontract does not entitle the Supplier ^{s47C} to modify the Service Levels and Service Credits.

9. NO SOLICITATION OF EMPLOYEES

- 9.1 During the Term and for a period of six (6) months after Termination, the Supplier must not (and must ensure that the Supplier Subcontractors do not) directly or indirectly solicit or attempt to solicit or employ or engage or procure the employment or engagement as an employee, director, officer or independent contractor or consultant, without the prior consent of the Department (where such consent will not be unreasonably withheld or delayed), of any of the Department Personnel involved in the Agreement.
- 9.2 For the purposes of Section 9.1, "*solicit*" means an approach to an individual with a view to employ or engage or procure the employment or engagement of that individual as an employee, director, officer or independent contractor or consultant, other than by way of general advertising provided that such advertising is not targeted at a particular person or class of persons.

10. NO DISCRIMINATION

- 10.1 The Supplier must comply with and ensure that Supplier Personnel and the Supplier Subcontractor(s) comply with:
- (a) all relevant Laws, policies and directives, in any Country covered by the scope of the Agreement; and
 - (b) Commonwealth and the Department policies as directed by the Department and as included in Schedule 13 (**Applicable Requirements**),

relating to discrimination in employment or otherwise during the course of performing Services under the Agreement.

PART C – ANNEXURES**ANNEX 9-1 KEY POSITIONS TABLE****Table 1**

Key Position	Approved Appointee
Corporate Office	
Chief Operating Officer	
Project Rollout Coordinator	
Security Oversight Committee and Supplier Security Manager	
Human Resource Manager	
Supply Chain Manager	
IT Manager	
Quality & Service Delivery Manager	
Finance Manager	
Contract Manager	
Tier 2 Delivery Unit	
Operations Manager	
Contract Manager	
Service Delivery Lead	
IT Manager	
WHS Manager	
Finance Manager	
Tier 1 Delivery Unit	
Operations Manager	
Contract Manager	
Service Delivery Lead	
IT Manager	
WHS Manager	
Facility Manager	

Add in any other Tier 1 delivery units.

ANNEX 9-2

MATERIAL SUBCONTRACTORS TABLE

NOTE TO DRAFTERS:

Insert a table listing in full details of Subcontractors utilised by the Supplier in the delivery of Agreement Services

SCHEDULE 10
FACILITIES

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ANNEX 10-1 REQUIREMENTS FOR SUPPLIER FACILITIES..... 3

ANNEX 10-2 APPROVED SUPPLIER FACILITIES 4

FACILITIES**1. INTRODUCTION**

- 1.1 This Schedule 10 (**Facilities**) sets out the parties' rights and obligations in respect of the Facilities, including the terms on which each party can access the other party's premises.
- 1.2 In this Schedule 10 (**Facilities**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. SUPPLIER FACILITIES**2.1 Service Centres**

- 2.1.1 All Service Centres must meet the minimum requirements set out in Annex 10-1.
- 2.1.2 The Department may, on a case-by-case basis, agree variations to the minimum requirements set out in Annex 10-1 or require additional requirements. The Supplier may request variations to the minimum requirements set out in Annex 10-1 through the Change Control Procedure.
- 2.1.3 The premises listed in Annex 10-2 have been approved by the Department as Service Centres or other Supplier Facilities. If the Supplier wishes to add a new Service Centre it must obtain the Department's prior written approval (which may be withheld at the Department's absolute discretion).
- 2.1.4 The Supplier may request to change the location of a Service Centre during the Term. Any change to the location must be in accordance with **Clause** and **37** of the **Terms and Conditions**. Each new Service Centre must meet the minimum requirements set out in Annex 10-1 and other applicable requirements, including the security requirements set out at Schedule 3 (**Security**). Annex 10-2 will be updated through the Change Control Procedure to include any new Service Centre, or any change to a Service Centre.
- 2.1.5 In considering the suitability of a location for a Service Centre, the parties will consider pertinent factors, including:
- (a) security risks and measures;
 - (b) proximity to the Department;
 - (c) the role of the facility in reducing costs, such as reduced staff churn;
 - (d) extent to which the facility meets relevant Government guidelines and policies; and
 - (e) suitability for suggested shared facilities.
- 2.1.6 The Supplier must obtain the Department's prior written consent, where such consent will not be unreasonably withheld, to use the Service Centres for any purpose other than fulfilling the Services Requirements, including providing any other services to other customers.
- 2.1.7 The external signage for each Service Centre must not reference the Department or the Australian Government unless otherwise agreed with the Department.
- 2.1.8 The Supplier must not display in any part of a Service Centre material which, in the reasonable opinion of the Department, is inappropriate for premises connected to the Australian Government (including offensive, defamatory, degrading or discriminatory material or material which criticises or is otherwise detrimental to the interests of Australia).
- 2.2 Other Supplier Facilities**
- 2.2.1 All Other Supplier Facilities must meet the minimum requirements set out in Annex 10-1.

2.2.2 The Department may, on a case-by-case basis, agree variations to the minimum requirements for Other Supplier Facilities set out in Annex 10-1 or require additional requirements. The Supplier may request local variations to the minimum requirements set out in Annex 10-1 and, if approved by the Department, must be agreed through the Change Control Procedure.

2.2.3 The premises listed in Annex 10-2 have been approved by the Department as Supplier Facilities as at the Effective Date. Annex 10-2 must be updated through the Change Control Procedure to include any new approved Supplier Facility. The Supplier must not provide Services from any facility that is not approved by the Department and listed in Annex 10-2.

2.3 **GENERAL**

2.3.1 The Supplier must allow the Department access to Supplier Facilities, including the Other Supplier Facilities, to exercise any rights of step-in granted to the Department pursuant to **Clause 46** of the **Terms and Conditions**, or as otherwise permitted under the Agreement.

2.3.2 The Supplier must allow access to Supplier Facilities, including the Other Supplier Facilities, by the Department and the Department's Audit Representatives in accordance with Schedule 12 (**Audit Access**) and by any other Department nominated representative as requested by the Department. The Department will use Commercially Reasonable Efforts to ensure that this does not adversely impact the Supplier's ability to provide the Services or the services provided to the Supplier's other clients of the Service Centre.

ANNEX 10-1

REQUIREMENTS FOR SUPPLIER FACILITIES

Each Service Centre must:

1. fulfil the security requirements set out in Schedule 3 (**Security**) and meet all other Services Requirements set out in the Agreement;
2. meet all applicable Australian legal requirements, including comply with local health and safety laws and, so far as is reasonably practicable, comply with Australian work health and safety Laws;
3. provide sufficient space and appropriate infrastructure to fulfil all of the Services Requirements. In particular, there should be adequate back-office infrastructure to protect operations and support the fulfilment of the Services Requirements, as more particularly described in Schedule 2 (**Business Requirements and Supplier's Solution**);
4. have a stable power supply to ensure that the fulfilment of the Services Requirements is not interrupted; specifically this means that each Service Centre must have an uninterrupted power supplier which provides power for short power outages and each Service Centre must have an independent power supply (such as a back up generator) capable of providing power to the Service Centre during any period of outage; and
5. provide a secure space to store all physical copies of Client Data at all times.

For each Other Supplier Facility, the Supplier must:

1. comply with the Department's Security Policy and Standards;
2. establish and maintain, at all Other Supplier Facilities, proper and adequate facilities, Equipment, supplies and properly trained and appropriately sized Supplier Personnel team including management staff and support staff;
3. properly manage, coordinate, oversee all maintenance, testing and monitoring of facilities systems, e.g. UPS systems, at the Other Supplier Facilities;
4. providing any and all telecommunication connectivity and capability (data, voice, video or other) that is required at the Other Supplier Facilities in order to provide the Services; and
5. create, update and maintain complete documentation of the Assets used to provide the Services that is located in the Other Supplier Facilities.

ANNEX 10-2

APPROVED SUPPLIER FACILITIES

PART 1: SERVICE CENTRES

The following table lists the locations of each Service Centre from which the Supplier may provide the Services. The Supplier warrants that the address listed for each Service Centre will be utilised for the provision of service delivery.

Table 10-2-1

Service Centre Location	Security Accreditation*	Address of Service Centre

* All Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) must have a Protective Security Policy Framework security accreditation at a minimum Zone 2 Security Zone. All other Supplier Facilities must have a Protective Security Policy Framework security accreditation at a minimum Zone 1 Security Zone.

PART 2: OTHER SUPPLIER FACILITIES

Other Supplier Facility Location	Address of Other Supplier Facility	Security Accreditation*	Purpose/Activities to be carried out at Other Supplier Facility

* All Supplier Facilities that are used to provide any Tier 2 Enquiry Services (including Supplier Facilities that are used to host any Tier 2 Enquiry data) must have a Protective Security Policy Framework security accreditation at a minimum Zone 2 Security Zone. All other Supplier Facilities must have a Protective Security Policy Framework security accreditation at a minimum Zone 1 Security Zone.

SCHEDULE 11
REPORTING

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REPORTING

1. SCOPE

- 1.1** This Schedule 11 (**Reporting**) sets out the range of Reports that the Supplier must provide during the Term to enable the Parties to manage the Agreement effectively. This Schedule 11 (**Reporting**) does not document each and every Report required but instead sets a framework for reporting which will:
- 1.1.1 deliver accurate and relevant information to the Parties in respect of the performance of the Services Requirements;
 - 1.1.2 support effective governance of the Agreement and the principles of partnership described in Schedule 7 (**Governance**);
 - 1.1.3 enable management of the Service Levels and Service Credits regime detailed in Schedule 6 (**Service Levels and Service Credits**);
 - 1.1.4 support and evidence the agreed commercial arrangements in respect of Assets, finance, and resource usage as those commercial arrangements are made;
 - 1.1.5 support the baselining and planning processes for service improvement activities and future business delivery; and
 - 1.1.6 provide for ongoing development of reporting requirements.
- 1.2** **Annex 11-1** sets out an indicative list of the main Reports required by the Department to manage the Agreement, in particular the Services Requirements and the Supplier's Solution.
- 1.3** If, after the Effective Date, it is noted by either Party that a Report is referenced in another Schedule of the Agreement but not referenced in this Schedule 11 (**Reporting**), the Supplier is still required to provide that Report; and, the Parties will amend **Annex 11-1** to add that Report.
- 1.4** As soon as practicable, but in any event no later than three (3) months after the Effective Date, the Parties will review **Annex 11-1** and will, subject to section 1.3, agree on a list of Reports to be provided by the Supplier and the format, purpose, content, frequency and distribution of such Reports. **Annex 11-1** will be updated no later than five (5) Business Days after this meeting to reflect the agreed reporting requirements.
- 1.5** Nothing in this Schedule 11 (**Reporting**) constrains the Department from reasonably requesting additional data, information or Reports relating to the provision of existing Services Requirements or to support the Department undertaking assessments of proposed Services improvement solutions from the Supplier on an ad hoc basis and in accordance with the Agreement (with such requests being at no cost to the Department).
- 1.6** As methods of managing and optimising the effectiveness and value of information systems evolve during the Term, the Supplier must work cooperatively with the Department, within the terms of the Agreement, to investigate potential benefits to the Department of adopting new technologies and/or methodologies which deliver improved reporting.

- 1.7 In this Schedule 11 (**Reporting**), unless the contrary intention appears, each capitalised term has the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. REPORTS

- 2.1 **Annex 11-1** details the main management Reports. Further reporting may be expected of the Supplier as part of the fulfilment of Services, including Services Requirements, Services failure, and Default activities. Where further Reports are required, the Department will notify the Supplier.
- 2.2 Minor changes to the content and format of Reports requested by the Department must be carried out by the Supplier. This will be at no cost to the Department and have no impact on the pricing of Service Charges ^{s47C} [REDACTED]. New reporting requirements or substantial changes to existing Reports will be agreed by the Parties pursuant to the Change Control Procedure in Schedule 8 (**Change Control**).

3. QUALITY AND FORMAT

- 3.1 All Reports are to be provided in the format specified in **Annex 11-1** for each Report, unless otherwise specified in this Agreement or agreed by the Department.
- 3.2 All Reports are to be communicated to the Department according to the IT Operations Plan.
- 3.3 All Reports are to provide sufficient granularity in the data and/or artefacts delivered to the Department to ensure they are fit for purpose.
- 3.4 The Supplier must ensure all Reports follow a quality assurance process prior to being submitted to the Department.
- 3.5 Any Report that does not meet the requirements of this Agreement may be rejected by the Department. The Supplier must rectify and resubmit any rejected Report within five (5) business days or as otherwise determined by the Department.

4. DELIVERY

- 4.1 Although different timings may be agreed, the Department's reporting requirements are due Canberra local time as follows:
- 4.1.1 for **daily Reports**, by 1600 hours on the next Business Day;
- 4.1.2 for **weekly Reports**, by 1600 hours on the first Business Day of the following week of the scheduled interval;
- 4.1.3 for **monthly Reports**; by 1600 hours on the 10th Business Day of the following month of the scheduled interval;
- 4.1.4 for **quarterly Reports**, by 1600 hours on the 10th Business Day after the end of the quarter;
- 4.1.5 for **annual Reports**, by 1600 hours on the 20th Business Day after end of the year; and
- 4.1.6 financial accounting and reporting data, except as otherwise specified, as reasonably required by the Department.

5. RAW DATA

- 5.1** The Supplier must retain the raw data underpinning each Report for the relevant period/s specified in the Agreement, or for such other period as may be reasonably required by the Department in order to allow the Department to verify the relevant Report.
- 5.2** The Supplier must make available to the Department upon request and in the format requested, all data relevant to the Agreement, including the raw data underpinning the Reports to enable the Department to undertake its own reporting and analysis.

6. DISTRIBUTION OF REPORTS

- 6.1** Reports must be supplied as a minimum to the Department in the prescribed format, listed in **Annex 11-1**.
- 6.2** The Supplier must distribute up to three (3) hard copies of Reports to nominated recipients as specified by the Department at no cost to the Department. There will be no cost to the Department for the distribution of additional soft copies of Reports, regardless of the number of copies.
- 6.3** The Department reserves the right to modify the distribution lists for all Reports as specified in **Annex 11-1**.

ANNEX 11-1

REPORTING REQUIREMENTS

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
Contract Management Reports					
1.	Supplier Management Report to the Contract Manager	Monthly	Soft copy Portable Document Format	<p>Provide "highlights" and "lowlights" in respect of the delivery of the Supplier's Solution; "RAG" (Red, Amber, Green) markings against Business Requirements. The threshold for what constitutes Red, Amber and Green markings will be agreed between the Supplier and the Department.</p> <p>Provide high level summary of actual monthly and accumulative Service Levels and Service Credits results against expected Service Levels and Service Credits expectations as set out at Schedule 6 (Service Levels and Service Credits), financial statements and contract amendments/variations.</p>	
2.	Agreement Management Issues	Monthly	Soft copy Portable Document Format	<p>Both Parties must maintain Agreement Management Logs and report to each other on new and continuing issues from inception to resolution, showing escalation as appropriate.</p> <p>The Supplier must maintain and manage a Central Issues Log and report management of central issues against it. The Report based on the Central Issue Log should detail the issue, mitigation and treatment decisions, agreed resolution activity, evidence of compliance with appropriate change and security processes and obligations, outcome of the resolution, including impact on business process and the Agreement.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
3.	Supplier Continuous Improvement Report	Bi-Annually	Soft Copy Portable Document Format	Supplier Continuous Improvement Report outlines related Services which impact on the performance of the Service Requirements and Service Levels and Service Credits, the Services Levels impacts, the business process benefit and value expectations, activity and approval status and the expected benefits realisation date.	
4.	Transition Management	As specified in Schedule 4	Soft copy Portable Document Format	Supports requirements set out in Schedule 4 (Transition Management).	
5.	Change Control	As specified in Schedule 8	Soft copy Portable Document Format	Supports the requirements set out in Schedule 8 (Change Control).	
Finance Reports					
6.	Rolling Financial Statement	Annually	Soft copy Raw Data Format	Reports on the Supplier's cost base, management accounts by profit or cost centre, and cost element at various levels within the hierarchy (within 3 months of financial year end).	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
s47C					

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
11.	Personnel Security	Quarterly or at the Department's request	Soft copy Portable Document Format	<p>The Report will confirm that:</p> <ol style="list-style-type: none"> 1. all successful applicants offered employment with the Supplier undertaking the Department's work have met all the security criteria before taking up duty; 2. all employees of the Supplier have signed the appropriate statutory undertaking not to disclose Client information with reminders of their obligations every six (6) months. Any breaches of the undertakings and the disciplinary action taken should be included; 3. the appropriate levels of vetting for Authorised Personnel was completed prior to staff taking up duty; and 4. any Departmental requests not to use specified individuals on the Department business have been implemented and continue to be complied with. <p>All of the above apply to all agents and personnel of the Supplier and Supplier Subcontractors performing duties under the Agreement.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
12.	Physical Security	Annually	Soft copy Portable Document Format	The Report must: 1. confirm all agreed physical security measures are in place and functioning normally; 2. address any issues open at the time of the previous Report and any new requirements or deficiencies identified since that Report was written and how these have been handled and managed; and 3. report if there are, or have been, any problems related to the physical security measures.	
13.	Cyber Security	Annually	Soft copy Portable Document Format	The Report must: 1. confirm all agreed cyber security measures are in place and functioning normally; 2. address any issues open at the time of the previous Report and any new requirements or deficiencies identified since that Report was written and how these have been handled and managed; and 3. report if there are, or have been, any problems related to the physical security measures.	
Business Reports					
14.	Business Continuity Management	Annually	Soft copy Portable Document Format	The Report must list all issues that may affect business continuity, and must include evidence of the business impact review and business recovery strategy for each issue identified.	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
15.	Risk Management	Annually	Soft copy Portable Document Format	The Report must list all issues in relation to risk management, and must include evidence of the risk mitigation strategy for each issue identified.	
16.	Service Level Reporting	Monthly	Hard copy and Soft copy Raw Data Format	To support the requirements of the Service Level regime set out in Schedule 6 (Service Levels and Service Credits).	
Systems and Services					
17.	Problem Management/Incident Reports	Monthly or when major incidents occur	Soft copy Raw Data Format	Reports against fault fixes, incorrect closures, major incidents, etc, how these were handled and managed and the outcome.	
18.	Interactions Report	Monthly or at the Department request	Hard copy and soft copy Raw Data Format	The Report must include: <ol style="list-style-type: none"> 1. volume of Client Enquiries received per Channel per hour, per Client category, per subject of Enquiry Intention per day; 2. volume of Client Enquiries handled per Channel per hour, per Enquiry Intention, per Functional Group per day; 3. volume of Client Enquiries escalated per Tier to/from, Channel, per Enquiry Intention, per day; 4. volume of Client Enquiries received from repeat Clients, and why they felt the need to make a Client Enquiry again; 	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
				<p>5. average handling times per Channel per hour, per Enquiry Intention per day;</p> <p>6. average response times per Channel per minute, per hour, per day;</p> <p>7. average abandoned Client Enquiries per Channel per day;</p> <p>8. number of complaints and detail of those complaints made by Clients per day;</p> <p>9. number of breaches/compliance issues with self-audit and details of those breaches/compliance issues per month;</p> <p>10. percentage of Client Enquiries that were resolved, by Channel;</p> <p>11. trend analysis, by Channel; and</p> <p>12. the top 10 topics searched.</p> <p>The Supplier is to capture and store any other data relating to Client Enquiries across all Channels they are responsible for that may be able to assist the Department in obtaining insight on a Client's interaction-specific behaviour.</p>	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
19.	Client Experience	Monthly	Soft Copy Raw Data Format	The Supplier is to report on Client experience with the Services. The Report is to include: 1. the number of Clients who provided feedback (actual and percentage of total number of Clients); 2. the satisfaction rating; 3. a sample of comments across the spectrum of Client experiences; and 4. a comparison to previous period Client experience.	
20.	Knowledge Improvement	Monthly	Soft Copy Raw Data Format	The Supplier is to provide anecdotal feedback from Supplier Personnel resolving or escalating Client Enquiries to inform the Department on possible patterns, issues and resolutions to impediments in their online interactions.	
21.	Cost base	Monthly	Soft copy Raw Data Format	The Supplier is to provide a report on the cost of handling each Enquiry per Channel per month.	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
22.	Lessons Learned	End of each Transition End of Contract Service	Soft copy Portable Document Format	<p>At the Termination of the Agreement, the Supplier must provide a Report setting out:</p> <ul style="list-style-type: none"> a) A brief description of the Services (context). b) What were the issues and what solutions were tried? c) What were its major outputs? d) A description of what worked well and the key successes of the Agreement. e) What factors supported this success? f) What have been the main challenges of the Agreement? g) What have been the main challenges/shortcomings/unforeseen circumstances of the Agreement? How were they overcome (if they were)? h) Were the Service Requirements met? If not, what changes need to be made to achieve these results in the future? i) Describe the key lesson(s) learned from the Agreement. j) What could have been done differently or better? k) What would you recommend to improve future contracts elsewhere? l) What mistakes should be avoided if the Agreement were to be replicated? m) Ease of replication of successes in a different context/ country? 	

No.	Report Name	Frequency (e.g. weekly, monthly)	Format of delivery	Description / Content	Distribution
Performance Reports					
23.	Weekly Operations Report	Weekly			
24.	Calls – Check on Application status	Monthly		Number of Client Enquiries received per region about the status of the Client's Application	
25.	Customer Satisfaction Survey	Monthly		A Report outlining the results of a customer satisfaction survey.	
26.	Key Highlights for the Month	Monthly		A Report where the Supplier provides details of key achievements for the month.	
27.	Complaints, Compliments and Suggestions Log	Monthly		A listing of comments left on a voluntary basis by Clients.	
28.	Meeting Minutes	Monthly		Provision of formal meeting minutes for any arranged meetings between the Supplier and the Department.	
29.	Number of Client Enquiries received at Service Centre, by Client Enquiry type (e.g. status, enquiry, feedback)	Monthly		A Report where the Supplier provides details of Service Centre and email Client Enquiries that breakdown the nature and extent of the Client Enquiry.	

SCHEDULE 12
AUDIT ACCESS

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AUDIT ACCESS

1. INTRODUCTION

- 1.1 This Schedule 12 (**Audit Access**) describes the Supplier's obligations and the Department's rights in connection with the manner in which the Department may carry out Audits, the Supplier's obligations regarding Audits, risk reporting and Supplier Audits.
- 1.2 Unless otherwise agreed and in accordance with Section 3.2 of Schedule 9 (**Human Resource Management**), the Supplier must ensure that each Material Subcontractor gives the Department the same rights and agrees to fulfil the same obligations as are undertaken by the Supplier under this Schedule 12 (**Audit Access**).
- 1.3 In this Schedule 12 (**Audit Access**), unless the contrary intention appears, each term will have the meaning set out in Schedule 1 (**Definitions and Agreement Particulars**).

2. RECORD KEEPING

- 2.1 The Supplier must maintain (in an orderly, auditable and accessible manner) a complete, accurate and up-to-date audit trail of all information, data, documents and records relating to its fulfilment of the Services Requirements and otherwise relating to the Agreement (including the records and documentation specified in Section 2.2) that are required to be maintained in accordance with this Schedule 12 (**Audit Access**) and Schedule 13 (**Applicable Requirements**), to meet the Department's Audit Rights and otherwise in accordance with Good Industry Practice ("**Audit Records**") and must comply with the terms of the Agreement and Commonwealth and the Department Policies in relation to such Audit Records.
- 2.2 Without limiting Section 2.1, the Audit Records must include:
- 2.2.1 a log of the number of calls, e-mails and other forms of enquiry to Service Centres with basic data about the nature of each Client Enquiry; and
- 2.2.2 a record of all Client Enquiries accepted by the Supplier, such record to include the date and time of the Client Enquiry, the type enquiry, and details of all supporting documentation submitted with the Client Enquiry;
- 2.3 The Supplier must maintain and, upon request, must provide the Department with access to all Audit Records and historical records or data existing and made available to the Supplier on and from the Effective Date until the latest of:
- 2.3.1 seven (7) years after the end of the Term;
- 2.3.2 the date that all pending matters relating to the Agreement (including disputes) are closed;
- 2.3.3 the date when such Audit Records are no longer required to meet applicable policies in accordance with Schedule 13 (**Applicable Requirements**), as such applicable policies may be amended from time to time; or
- 2.3.4 such date as may be necessary to meet any applicable regulatory or legal requirement in accordance with Schedule 13 (**Applicable Requirements**).

3. AUDIT RIGHTS

3.1 Subject to **Clause 34** of the **Terms and Conditions**, the Department has the right to perform audits, examinations and inspections of the Supplier (and has the right to have access to, and take copies of, Audit Records) in order to:

- 3.1.1 examine the Supplier's fulfilment of the Services Requirements, including verifying compliance with the Performance Standards and the accuracy of related measuring and reporting requirements, as set out in the Agreement;
- 3.1.2 verify the accuracy of all Service Charges ^{s47C} or any adjustments thereof (and any other amounts payable under the Agreement) and of all invoices provided;
- 3.1.3 verify the integrity, confidentiality and security of the Department Data and Client Data and examine and inspect the Infrastructure Systems (or any parts thereof) that process, store, support and transmit the Department Data;
- 3.1.4 audit, to the extent applicable to the fulfilment of the Services Requirements by the Supplier, all risk management, governance and control procedures used by the Supplier to manage the risks applicable to its fulfilment of the Services Requirements, including:
 - (a) the Supplier's practices and procedures;
 - (b) the Assets used to fulfil the Services Requirements;
 - (c) the Supplier's general controls and security practices and procedures (including the performance of penetration testing);
 - (d) the Supplier's disaster recovery and back-up procedures;
 - (e) the use by or on behalf of the Supplier of any of the Department Assets; and
 - (f) the Supplier's security and risk management practices;
- 3.1.5 verify the Supplier's maintenance of, and compliance with, the Transition Out Plan, as specified in Schedule 4 (**Transition Management**);
- 3.1.6 verify the Supplier's compliance with its obligations relating to business continuity and disaster recovery planning and testing, as specified in the Agreement;
- 3.1.7 identify suspected fraud or material accounting mistakes, however the Department is under no obligation to inform the Supplier of the objective of its investigations;
- 3.1.8 conduct the Department's statutory audits including any audit activities the Department is required to carry out in relation to any ANAO, Privacy Commissioner or Information Commissioner audits;
- 3.1.9 carry out any audit activity required by the Department to enable the Department to meet, or to verify compliance by the Department or the Supplier with any applicable Laws;

- 3.1.10 verify the Supplier's compliance with Commonwealth or Department Policies; and
- 3.1.11 carry out any audit activity reasonably required by the Department to otherwise verify the Supplier's compliance with the provisions of the Agreement,
- collectively, "**Audits**".
- 3.2** The Department will provide reasonable prior notice of any Audit it intends to carry out pursuant to this Schedule 12 (**Audit Access**) provided that in cases of emergency or for one of the following purposes, no prior notice is required (and the Supplier must grant to the Department immediate access and all necessary assistance for):
- 3.2.1 Regulatory Audits or audits required as a direction received from a Commonwealth Minister or an order of the Australian Parliament for which it is not reasonably possible to give full notice;
- 3.2.2 Audits which are required by the Department for reasons of suspected fraud or dishonesty;
- 3.2.3 Audits which are required by the Department to verify the Supplier's compliance with the security requirements set out in the Agreement, including Schedule 3 (**Security**), and security Audits following a suspected security breach;
- 3.2.4 Audits which are required by the Department, where the Department suspects that the Supplier may be in Material Default;
- 3.2.5 "mystery shopper" type Audits to verify the integrity, effectiveness and acceptability of the Services from a Client's perspective; and
- 3.2.6 other Audits, the nature of which genuinely and reasonably requires that no prior or full notice be given to the Supplier.
- 3.3** Where an Audit (with the exception of an Audit for suspected fraud as communicated to the Supplier) will materially impact upon the Supplier's ability to meet the Service Levels, the Parties will agree an appropriate suspension of applicable Service Levels.

4. ACCESS TO THE SUPPLIER'S FACILITIES AND MATERIALS

- 4.1** In connection with any Audit, the Supplier must give the Department access for as long as necessary to those parts of the Supplier Facilities where any Supplier Personnel, Audit Records, Supplier Materials, Supplier Subcontractors, Infrastructure Systems and any other of the Supplier's data, records and systems relating to the fulfilment of the Services Requirements are located.
- 4.2** In connection with any of the Audits specified in Section 3.2, the Supplier must provide the Department, upon request, with full access to the Supplier Personnel. In connection with any other Audit, the Supplier must provide the Department, upon request, with such access to Supplier Personnel as is reasonably necessary.
- 4.3** In connection with any Audit, the Supplier must provide the Department with full access, upon request, for as long as necessary, to the Audit Records and, in addition,

must provide to the Department (without charge) all such assistance and co-operation as is reasonably necessary in connection with any such Audit.

- 4.4 The Department will ensure that in carrying out the Audit, the Department Audit Representative complies with the health and safety and security requirements notified by the Supplier.

5. ACTION ON AUDIT REPORTS

- 5.1 Upon completion of an Audit, the Department Audit Representative (or such other person as the Department may nominate) will then prepare a written report ("**Audit Report**") detailing the findings.

- 5.2 Subject to security classification or other confidentiality restrictions, the Supplier is entitled to receive a copy of those parts of the Audit Reports which are relevant to the Supplier's performance under the Agreement. The Parties will develop, agree and follow procedures for the sharing of Audit Reports.

- 5.3 The Supplier and the Department will meet to review Audit Reports in line with the procedures developed and agreed by the Project Executive Committee. Such meetings will take place on a quarterly basis, save in respect of Audit Reports which require more frequent review, as reasonably requested by the Department.

- 5.4 With respect to any findings by the relevant Audit of any material failure by the Supplier to comply with the requirements of the Agreement including:

5.4.1 applicable Laws;

5.4.2 Commonwealth and the Department Policies;

5.4.3 with respect to the fulfilment of the Services Requirements or the systems, operations or procedures used to deliver the Supplier's Solution; or

5.4.4 a failure by the Supplier to comply with its obligations in the Agreement in respect of information security,

the Supplier will agree with the Department and then implement the appropriate corrective or remedial action, at no cost to the Department.

- 5.5 Without limiting the generality of the foregoing, if, as a result of an Audit, the Department discovers that any systems, procedures, policies or standards used in the fulfilment of the Services Requirements conflict with, interfere with, or do not comply with the Agreement, then the Supplier will modify the same as reasonably required by the Department. The Supplier will take such actions as are necessary to bring it into compliance with the Agreement to the Department's reasonable satisfaction. If there is any dispute as to whether a failure which may be corrected, remedied or otherwise resolved by modifications has occurred, the Department may request the Supplier to implement such change in accordance with the timetable set out in the Audit Report and the Services Requirements will be fulfilled with such change in effect, notwithstanding the existence of a disagreement that may be resolved pursuant to the Dispute Resolution Procedure.

- 5.6 The Supplier must provide, at a minimum, monthly updates to the Department on the implementation of all actions and recommendations made in Audit Reports, and the Parties will meet to review the progress made by the Supplier in implementing such actions and recommendations including rectification reviews required in connection

with the requirements of any regulator, in line with the procedures developed and agreed by the Parties (acting reasonably).

- 5.7 If there is a dispute in relation to any Audit Report or audit findings, the Parties will resolve such dispute in accordance with the Dispute Resolution Procedure.

6. SUPPLIER AUDITS AND RISK REPORTING

- 6.1 During the Term, the Supplier and the Supplier Subcontractors must conduct internal reviews and audits of, or pertaining to, the fulfilment of the Services Requirements in a manner consistent with the audit practices of well-managed operations performing services similar to the Supplier in its fulfilment of the Services Requirements ("**Supplier Audits**"). The Supplier Audits must include the random quality audits carried out pursuant to Schedule 6 (**Service Levels and Service Credits**).

- 6.2 The Supplier must:

6.2.1 inform the Department of the identities of its internal representatives that have responsibility for audit and security;

6.2.2 provide details to the Department of the Supplier's own audit and security programmes including such further details as the Department may reasonably request from time to time in connection with such programmes; and

6.2.3 ensure that its representatives liaise with the Department, regarding the potential for joint working, where practicable, and the development of the necessary procedures to support this aim.

- 6.3 The Supplier must ensure that, as part of the Supplier Audits, a security and risk assessment audit (which must, subject to prior agreement of the Department, include penetration testing of the Supplier's systems) is carried out by an independent third party, on terms and scope acceptable to the Department and at least once per Agreement Year. Where the independent tester's report recommends remedial actions to bring the Supplier into compliance with the security standards required under the Agreement, which do not relate to pre-existing weaknesses inherited from the Department, the Supplier will implement these at its own cost and expense and in accordance with a plan and timetable agreed between the Parties in accordance with the Change Control Procedure.

- 6.4 The Supplier must notify the Department as soon as practicable, and in any event within five (5) Business Days, where any statutory and/or Regulatory Audit is carried out which includes any aspect of the fulfilment of the Services Requirements or is otherwise pertinent to the Agreement.

- 6.5 The Supplier must promptly make available to the Department the results of the Supplier Audit and, in particular, the Supplier must immediately notify the Department of any finding or report concerning any actual or suspected error with respect to amounts charged to the Department under the Agreement or with regard to any significant or material weakness identified in the Supplier's business, operations, systems, procedures or controls or which may otherwise impact on the Supplier's ability to fulfil the Services Requirements in accordance with the Agreement.

- 6.6 The procedures for sharing Audit Reports, to be developed in accordance with Section 5.2, also apply to Supplier Audit reports. Such procedures will also require, subject to applicable Law:

- 6.6.1 that where a report is being prepared by an external auditor for the Supplier, drafts must be submitted to the Department simultaneously with any draft submitted to the Supplier; and
- 6.6.2 that no report in connection with any Supplier Audit (whether prepared by an external or internal auditor or other person) is issued in final form without the Department's prior approval.
- 6.7 The Supplier and the Department will meet to review any Supplier Audit report promptly and in any event within twenty (20) Business Days after the issuance thereof, and will mutually agree upon the appropriate manner, if any, in which to respond to the changes suggested by the Supplier Audit report. Unless otherwise agreed, such changes will be implemented as described in Section 5.5.
- 7. ASSISTANCE**
- 7.1 The Supplier must promptly and efficiently co-operate with and provide the Department with any and all assistance reasonably required (including installing and operating audit software) in carrying out the Audits.
- 7.2 The Supplier must make available personnel from its internal audit team. Such personnel must liaise with and cooperate with the Department's internal audit representatives in order to assist with the conduct of the Department's Audit activities including, where possible, avoiding duplication of such activities.
- 7.3 Where the Department requests the removal of a particular Supplier internal audit team member for reasons of competence, the Supplier must, as soon as practicable, replace that individual with another suitably qualified member of the Supplier's internal audit team.
- 8. OVERCHARGING AND COSTS**
- 8.1 If any Audit reveals any overcharging of the Service Charges ^{s47C} due to an act or omission of the Supplier the Supplier must credit the overcharge amount directly to the Department ^{s47C} within twenty (20) Business Days after the overcharge notification.
- 8.2 Except as expressly set out in this Section 8, each Party will bear its own costs and expenses incurred in connection with the performance of Audits and otherwise under this Schedule 12 (**Audit Access**).
- 8.3 Without limiting the Department's rights under the Agreement, the Supplier must reimburse (if applicable), and indemnify, the Department in connection with any Audit which uncovers any Material Default by the Supplier of any of its obligations under the Agreement and/or any fraud and/or any overcharging by the Supplier of an amount in excess of one per cent (1%) of the correct Service Charges ^{s47C}
- 9. DURATION OF AUDIT RIGHTS**
- 9.1 The Department may exercise any of its Audit Rights set out in this Schedule 12 (**Audit Access**) during the Term and for a period of seven (7) years afterwards. Thereafter, Audit Rights may only be carried out as long as required by a Law (including for statutory accounting purposes).

SCHEDULE 13
APPLICABLE REQUIREMENTS

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ANNEX 13-1 RECORDS MANAGEMENT POLICY..... 1

APPLICABLE REQUIREMENTS**1. LAWS****1.1 Laws – General**

1.1.1 The Supplier must comply with all Laws, including any local Laws, which from time to time regulate or affect the Services or the activities to which the Services relate as required by **clause 29** of the **Terms and Conditions**. These may include provisions of the following legislation:

- (a) *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;
- (b) Attorney-General's 'Legal Services Directions' as issued by the Attorney General in accordance with the *Judiciary Act 1903*;
- (c) *Archives Act 1983*;
- (d) *Australian Border Force Act 2015*;
- (e) *Public Governance, Performance and Accountability (PGPA) Act 2013*;
- (f) *Freedom of Information Act 1982*;
- (g) *Migration Act 1958*;
- (h) *Privacy Act 1988*;
- (i) *Racial Discrimination Act 1975*;
- (j) *Sex Discrimination Act 1984*;
- (k) *Charter of United Nations Act 1945*
- (l) *Customs Act 1901*;
- (m) *Crimes Act 1914*;
- (n) *Weapons of Mass Destruction (Prevention of Proliferation) Act 1995*; and
- (o) *Work Health and Safety Act 2011*.

1.2 Criminal Code

1.2.1 The Supplier acknowledges that:

- (a) any:
 - (i) unauthorised access to, or modification of, data held in a computer, and impairment of electronic communication to or from a computer, with intent to commit a serious offence;
 - (ii) unauthorised access to, or modification of, restricted data;
 - (iii) unauthorised impairment of data held on a computer disk, credit card or another device used to store data by electronic means;
 - (iv) possession or control of data with intent to commit a computer offence; and
 - (v) production, supply or obtaining of data with intent to commit a computer offence,

are offences under Part 10.7 of the Criminal Code, for which there are a range of penalties, including imprisonment. "Data" includes the Department's Data;

- (b) it is an offence under Division 137 of the Criminal Code to give false and misleading information (including omitting any matter or thing without which the information is misleading) or documents to the Commonwealth or its officers or agents for which the penalty is imprisonment for 12 months; and
- (c) the:
 - (i) communication (including permitting unauthorised access)
 - (ii) retention, and
 - (iii) failure to comply with directions in relation to the retention or disposal,

of information, including a document, that has been obtained by a person who has obtained that information by virtue of the Agreement to a person who is not authorised to receive that information is an offence under section 79 of the *Crimes Act* 1914, the maximum penalty for which is 7 years' imprisonment.

1.3 Anti-Terrorism

1.3.1 The Supplier must comply with:

- (a) its obligations under Part 4 of the *Charter of United Nations Act* 1945 and the Charter of United Nations (Dealing with Assets) Regulations 2008, and
- (b) all applicable Laws dealing with the supply and/or export of goods, services and information to foreign nationals or institutions including under the *Customs Act* 1901 and the *Weapons of Mass Destruction (Prevention of Proliferation) Act* 1995.

1.3.2 The Supplier acknowledges that it is an offence to knowingly make any funds or assets available to a person or organisation on the list of persons and entities designated as terrorist, available at http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html

1.3.3 If the Supplier holds assets or funds belonging to a person or organisation on the list of persons and entities designated as terrorists, the Supplier must immediately freeze those assets and the Supplier must immediately notify the Department.

2. WORK HEALTH AND SAFETY

- 2.1 The Department is committed to a strong workplace culture where the health, safety and wellbeing of everyone at the Department are of paramount importance. A healthy and safe workplace is an essential component of creating a productive environment, with the intent to fully and effectively support the business and community outcomes.
- 2.2 The Supplier must ensure that Supplier Personnel and Subcontractors carry out work under the Agreement in a manner which:

- 2.2.1 does not pose any avoidable health or physical safety risk to the Department's Personnel, Supplier Personnel, or any other person; and
- 2.2.2 complies at all times with all applicable occupational health and safety and workplace diversity legislation and any other applicable Laws.
- 2.3 The Supplier must perform its obligations under the Agreement in such a way that:
 - 2.3.1 Commonwealth "worker" (as defined in Section 7(1) of the *Work Health and Safety Act 2011*) are able to participate in any necessary inspections of work in progress and tests and evaluations of the Services; and
 - 2.3.2 the Commonwealth is able to support and to make full use of the Services for the purposes for which they are intended, without the Commonwealth being in breach of any Work Health and Safety statutory requirements which apply to the Services.
- 2.4 The Supplier must deliver, maintain and manage a plan and policy for the promotion of health and safety, including fire protection and first aid relating to the performance of the Services.
- 2.5 The Supplier must notify the Department of any health and safety hazards which may arise in connection with the performance of the Agreement and the Supplier should take immediate and appropriate action in relation to such health and safety hazards. In particular, the Supplier must notify the Department of any health and safety hazards which may exist or arise at any Service Centre and which may affect the Applicants. The Supplier must draw these hazards to the attention of the Applicants, its employees and Supplier Subcontractors or any persons engaged by the Supplier in the performance of the Agreement at the Supplier Facilities and the Supplier must instruct such persons in connection with any necessary associated safety measures.
- 2.6 The Department reserves the right to exclude Supplier Personnel from any of the Department's Facilities on safety grounds.
- 2.7 The Supplier must inform all persons engaged in the performance of the Agreement at the Department's Facilities of all such hazards and must instruct such persons in connection with any necessary associated safety measures.

3. ENVIRONMENTAL ISSUES

3.1 Environment

- 3.1.1 In addition to **Clauses 47.2 to 47.3** of the **Terms and Conditions**, the Supplier acknowledges the:
 - (a) Australian Government guidelines in relation to environmental purchasing (Sustainable Procurement Guide), and its relationship with the Department's value for money assessment of the Services over their life cycle;
 - (b) The Department's commitment to implement and maintain an Environmental Management System (**EMS**) that meets international standards and complies with all relevant Commonwealth and non-Commonwealth environmental legislation, policies, initiatives and regulations to which the Department subscribes; and
 - (c) The Department's obligations to report on its environmental performance and its contribution to Ecologically Sustainable Development under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), which focuses on matters of national environmental significance and streamlines environmental and approval processes and requires the Department to report

environmental activities and the measures taken to minimise the impacts of these activities.

- 3.1.2 Where appropriate, the Supplier agrees to use energy efficient products, products from recycled materials or other environmentally preferable products in its provision of the Services (including packaging for those products).
 - 3.1.3 The Supplier must provide information to the Department in relation to the products the Supplier uses to provide the Services, including how those products are energy efficient, made from recycled materials or are otherwise environmentally preferable upon request by the Department.
 - 3.1.4 The Supplier must comply with all reasonable directions given by the Commonwealth Representative in respect of work practices or use of Assets in order to eliminate or mitigate any condition contrary to published environmental standards which apply to the Department.
- 3.2 Substantiation of Claims
- 3.2.1 In performing Services under the Agreement the Supplier must:
 - (a) substantiate any claims it makes about the impact of the Services on the environment; and
 - (b) comply with *Green Marketing and the Australian Consumer Law* (2011), a publication of the Australian Competition and Consumer Commission.
- 3.3 Hazardous Substances
- 3.3.1 The Supplier must not:
 - (a) use any Hazardous Substance in performing the Services, or
 - (b) introduce or store on any Location any Hazardous Substance, except where:
 - (i) necessary for the performance of the Agreement and with the Department's prior written approval; or
 - (ii) those Hazardous Substances are comprised in the Department's Material.
 - 3.3.2 In respect of each Hazardous Substance which is used in the performance of the Services, the Supplier must:
 - (a) provide full details to the Department of that substance (including location, and protective clothing provided) in the format of a Material Safety Data Sheet complying with "National Code of Practice for the Preparation of Material Safety Data Sheets 2nd Edition" [NOHSC: 2011 (2003)];
 - (b) ensure that all documentation, including that related to operation, maintenance, assembly, shipping and handling, is clearly endorsed to identify the presence and nature of the hazard ;
 - (c) ensure that all goods, Assets and Materials containing that substance bear appropriate labels which clearly identify the nature of the substance, its associated hazards and appropriate safeguards; and

- (d) comply with all Laws which apply in the country of manufacture, on the high seas or within the Commonwealth as they relate to any Hazardous Substance included in any goods, Assets and Materials delivered to the Department as part of the Services.
- 3.3.3 The Supplier must promptly (and no later than five (5) Business Days after discovery) advise the Department if it becomes aware of a non-hazardous substance which could be substituted for a Hazardous Substance without significant detriment to the performance of the Services.
- 3.3.4 The Supplier's performance of the Services must not give rise to the emission of gases, liquids, solids, electromagnetic radiation, heat or noise which could be detrimental to personnel, the environment or the operation of other Assets, except where this is consistent with the end-use and nature of the goods, Assets and Materials supplied as part of the Services and is within normal tolerances acceptable to the community at large.
- 4. RECORDS MANAGEMENT REQUIREMENTS**
- 4.1 To the greatest extent possible and notwithstanding any other requirement in the Agreement the Supplier is to comply with, and assist the Department to comply with, the Department's Records Management Policy.
- 4.2 The Supplier must capture and maintain an audit trail against each Client interaction including:
 - 4.2.1 the Client Enquiry channel;
 - 4.2.2 who handled the enquiry;
 - 4.2.3 the treatment that was applied to each interaction;
 - 4.2.4 where applicable, the Line of Business Systems accessed; and
 - 4.2.5 where provided by the Client:
 - (a) full name;
 - (b) email address;
 - (c) contact numbers; and
 - (d) interaction notes including anecdotal client experience feedback.
- 4.3 The Supplier must make all audit data available to the Department upon request.
- 4.4 If the Supplier is advised by the Department or becomes aware of a 'records disposal freeze or retention notice' then it must not destroy any relevant records until further notice.
- 5. STANDARDS**
- 5.1 The Supplier must provide the Services in accordance with the following standards or such equivalent or higher standard as applicable to the jurisdiction in which the Services are provided:
 - 5.1.1 ISO 9001:2015 - "Quality management systems - Requirements";
 - 5.1.2 ISO/IEC 27002:2013 - "Information technology -- Security techniques -- Code of practice for information security controls";
 - 5.1.3 ISO/IEC 20000-1:2011 "Information technology - Service management";
 - 5.1.4 AS/NZS ISO 31000:2009 "Risk management – Principles and guidelines": and
 - 5.1.5 AS HB167:2006 "Security risk management".

6. PRIVACY PROTECTION

6.1 Without limiting **Clause 30** of the **Terms and Conditions** in the Agreement, the Supplier must:

6.1.1 immediately notify the Department if it becomes aware:

- (a) of a breach of any obligation concerning security, use and disclosure of Personal Information relating to an officer or employee of the Department by Supplier Personnel or Supplier Subcontractors or any other Supplier representative (including employees, officers and agents of an approved subcontractor); or
- (b) that a disclosure of Personal Information may be required by Law;

6.1.2 co-operate with any reasonable request or direction of the Department arising directly from, or in connection with, the exercise of the Privacy Commissioner's powers and functions under the *Privacy Act 1988* or otherwise including (but not limited to) the issuing of any guidelines concerning the handling of Personal Information; and

6.1.3 co-operate with any reasonable request or direction of the Department which is, in the reasonable opinion of the Department, necessary to determine whether the Department is complying with its obligations under **Clause 30** of the **Terms and Conditions** of the Agreement.

6.2 If the Department receives a complaint or allegation of interference with the privacy of an individual by the Supplier, the Department will immediately notify the Supplier of only those details of the complaint necessary to minimise any breach of privacy or prevent further breaches of **Clause 30** of the **Terms and Conditions** of the Agreement.

6.3 If the Supplier receives or becomes aware of a complaint or allegation of interference with the privacy of an individual by the Supplier or one of a Supplier Subcontractor, the Supplier must immediately notify the Department of the nature of the complaint or allegation and release to the Department the Personal Information concerning the complainant.

6.4 If the Department has given or been given notice in accordance with Sections 6.2 or 6.3:

6.4.1 the Supplier must do everything reasonably necessary to enable the Department to properly deal with the complaint or allegation; and

6.4.2 the Department will keep the Supplier informed of the progress of the complaint or allegation as it relates to the actions of the Supplier in connection with the allegation of an interference with the privacy of an individual.

6.5 The Department may decide to pay a reasonable amount to a person as compensation for loss or damage suffered by that person as a result of any breach of **Clause 30** of the **Terms and Conditions** of the Agreement by the Supplier for which the Department would have been liable under the Privacy Act if such breach had been that of the Department.

6.6 The Department will give the Supplier fourteen (14) days' written notice of an intention to proceed in accordance with Section 6.2 which includes an explanation of how that liability or expense was assessed and the Supplier's proposed share of that liability.

7. AUSTRALIAN PUBLIC SERVICE CODE OF CONDUCT

7.1 The Supplier must comply with the following ethical principles and practices:

- 7.1.1 behave honestly and with integrity;
- 7.1.2 act with care and diligence; and
- 7.1.3 treat everyone with respect and courtesy, and without harassment;
- 7.1.4 comply with all applicable Laws;
- 7.1.5 use Commonwealth resources in a proper manner;
- 7.1.6 not provide false or misleading information in response to a request for information that is made by the Department in connection with the Agreement;
- 7.1.7 not make improper use of:
 - (a) inside information;
 - (b) the Supplier's duties, status, power or authority,
 in order to gain, or seek to gain, a benefit or advantage for the Supplier; and
- 7.1.8 at all times behave in a way that upholds the principles and practices set out in this Section 7.1 and the integrity and good reputation of the Department.
- 7.2 In providing the Services the Supplier must comply with the *Commonwealth Fraud Control–Framework*. The Framework aims to reduce the incidence of fraud and reduce the opportunity for fraud against the Commonwealth to occur.
- 8. LOBBYING CODE OF CONDUCT**
 - 8.1 The Lobbying Code of Conduct is intended to promote trust in the integrity of government processes and ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity and honesty. Lobbyists and Government representatives are expected to comply with the requirements of the Lobbying Code of Conduct in accordance with their spirit, intention and purpose. A copy of the Lobbying Code of Conduct is available at <http://lobbyists.pmc.gov.au/lobbyistsregister/index.cfm?event=contactwithLobbyistsCode>.
 - 8.2 "Government representative" for the purposes of the Lobbying Code of Conduct includes a person engaged as a contractor or consultant by an Australian Government Agency whose staff are employed under the *Public Service Act* 1999.
 - 8.3 In providing the Services the Supplier must, and must ensure that Supplier Personnel will, comply with the Lobbying Code of Conduct and the Australian Public Service Commission (APSC) Circular 2008/4: "Requirements relating to the Lobbying Code of Conduct and post separation contact with Government" where their activities fall within the scope of the Lobbying Code of Conduct.
- 9. FREEDOM OF INFORMATION**
 - 9.1 In this Section 9, 'document' and 'Commonwealth contract' have the same meaning as in the *Freedom of Information Act* 1982 (Cth).
 - 9.2 Where the Department has received a request for access to a document created by, or in the possession of, the Supplier or any Supplier Subcontractor that relates to the provision of Services for the Department under the Agreement (and not to the entry into of the Agreement), the Department may at any time by written notice require the Supplier to provide the document to the Department and the Supplier must, at no additional cost to the Department, promptly comply with the notice.

- 9.3 The Supplier must include in any subcontract entered into on or from the Effective Date relating to the performance of the Agreement provisions that will enable the Supplier to comply with its obligations under this Section 9.

10. INTEGRITY AND PROFESSIONAL STANDARDS

- 10.1 For the purpose of this Section 10, Contracted Persons is defined to include agents, subcontractors, consultants, professional advisers and contracted staff, but does not include employees.
- 10.2 The Supplier acknowledges that it, its employees and Contracted Persons, including Supplier Personnel, are IBP workers.
- 10.3 The Supplier will comply with the ABF Act, and will ensure that its employees and Contracted Persons are aware of and comply with the ABF Act.
- 10.4 The Supplier acknowledges that the ABF Act includes requirements relating to integrity and anti-corruption including:
- 10.4.1 mandatory reporting of serious misconduct, corrupt conduct and criminal activity;
 - 10.4.2 professional standards; and
 - 10.4.3 drug and alcohol testing.
- 10.5 The Supplier agrees to assist and co-operate with the Department in administering the ABF Act to ensure compliance by its employees and Contracted Persons.
- 10.6 The Supplier will incorporate written terms in any agreement that it enters into with Contracted Persons, obliging such Contracted Persons to:
- 10.6.1 comply with the ABF Act, as an IBP worker;
 - 10.6.2 ensure that its employees and Contracted Persons are aware of and comply with the ABF Act, as IBP workers; and
 - 10.6.3 ensure that it has the right to cease the involvement of an employee or Contracted Persons in the performance of the Services, if so requested by the Department.
- 10.7 If the Supplier or its employees or Contracted Persons, including Personnel:
- 10.7.1 breaches this clause;
 - 10.7.2 fails at any time to comply with the ABF Act;
 - 10.7.3 refuses to comply with a requirement to undergo an alcohol screening test;
 - 10.7.4 refuses to comply with a direction to undergo a drug or alcohol test;
 - 10.7.5 exceeds the permissible blood alcohol concentration level specified under the ABF Act;
 - 10.7.6 returns a verified positive prohibited drug test that indicates the presence of a prohibited drug which exceeds the testing cut-off levels specified under the ABF Act;
 - 10.7.7 fails to exercise any right it has to cease the involvement of any of its employees or Contracted Persons in the performance of the Services, if so requested by the Department;
 - 10.7.8 fails to provide assistance when requested by the Department for the purpose of administering the ABF Act as it relates to this Agreement;
- then the Department may, by written notice, in its absolute discretion:

- 10.7.9 require that the Supplier immediately cease the involvement of specified employees or Contracted Persons including Supplier Personnel, in the performance of the Services, including exercising the Department's rights under this Agreement;
- 10.7.10 immediately revoke its approval of a Subcontractor under this Agreement; or
- 10.7.11 immediately terminate this Agreement, whether or not the breach, failure or conduct is capable of being remedied, in accordance with the procedure in this Agreement,
- without liability and at no additional cost to the Department.
- 10.8 If the Supplier's employees or Contracted Persons, including Supplier Personnel, return a presumptive drug test that requires further investigation as it indicates the presence of a prohibited drug which exceeds the testing cut-off levels specified under the ABF Act, then the Department may, by written notice:
- 10.8.1 require that the Supplier suspend the involvement of the employee or Contracted Persons in the performance of the Services for a specified period to enable a confirmatory test or verification test; and
- 10.8.2 require the provision of a suitable replacement for the specified period.
- 10.9 The Department will not be liable for any costs or charges relating to the suspension of any employee or Contracted Persons under this clause, regardless of the results of the confirmatory test or verification test. If the Supplier is unable to provide a suitable replacement for the duration of the suspension, the Department's liability to pay fees under this Agreement ^{s47C} will abate in accordance with the reduction of Services.
- 10.10 This clause will survive the expiration or termination of this Agreement.

ANNEX 13-1

RECORDS MANAGEMENT POLICY

SCHEDULE 14
PERFORMANCE GUARANTEE

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PERFORMANCE GUARANTEE

This Deed of Performance Guarantee (Performance Guarantee) made at [INSERT LOCATION]

In favour of

The **Commonwealth of Australia** as represented by represented by the Department of Immigration and Border Protection (“**the Department**”) ABN 33 380 054 835 of 6 Chan Street BELCONNEN ACT 2617

By

[INSERT NAME OF PARENT GUARANTOR] whose registered office is at
[INSERT GUARANTOR ADDRESS] (“**the Guarantor**”)

Registered Office:

- A The Department wishes to procure the Services.
- B The Supplier has agreed to provide the Services to the Department under the Agreement.
- C Under the Agreement, the Supplier has agreed to procure from the Guarantor the guarantees and indemnities appearing in this Performance Guarantee. This Performance Guarantee covers all Obligations of the Supplier under the Agreement.
- D In consideration of the Department entering into the Agreement, the Guarantor agrees to give the guarantees and indemnities below in respect of the performance of the Supplier's Obligations under the Agreement on the terms and conditions set out in this Performance Guarantee.

Operative provisions**1 DEFINITIONS AND INTERPRETATION****Definitions****1.1** In this Performance Guarantee:

Agreement means the agreement entered into by the Department and the Supplier for the provision of the Services dated **[Insert Agreement date]**.

Law means:

- (a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject;
- (b) the common law and the law of equity as applicable to a party/the parties from time to time;
- (c) any binding court order, judgement or decree;
- (d) any applicable industry code, policy or standard enforceable by law; or
- (e) any applicable direction, policy, rule or order that is binding on a party and that is made or given by any competent regulatory body having jurisdiction over a party or any of that party's assets, resources or business,

in any jurisdiction that is applicable to this Performance Guarantee or the Services, and “Legal” shall be interpreted accordingly.

Obligations means:

- (a) each and all of the obligations of the Supplier under the Agreement; or
- (b) insofar as an Obligation (including an obligation to pay money) under the Agreement is no longer capable of being performed by the Supplier due to the essential nature of such Obligation, such amount as the Supplier may be found liable to pay as damages (in accordance with the liability provisions of the Agreement or at Law) for the failure to discharge such Obligation.

Performance Guarantee means this Deed of Performance Guarantee.

Services means the Services as defined in the Agreement.

Supplier means **[INSERT NAME OF SUPPLIER]**

Interpretation

1.2 In this Performance Guarantee, unless the context otherwise requires:

- (a) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (b) a reference to one gender includes a reference to the other genders and each of them;
- (c) a reference to a person includes a reference to a corporation or firm and vice versa; and
- (d) a reference to the singular denotes the plural and vice versa.

1.3 If any provision of this Performance Guarantee is or becomes unenforceable, illegal, invalid or void, then that provision must be interpreted, so far as possible, to be limited or read down or severed to the extent necessary to make it valid and enforceable and the remaining provisions of this Performance Guarantee will not be affected and will continue in full force and effect.

1.4 For the purpose of this Performance Guarantee, where the Supplier has failed to perform an Obligation, that will be taken to be a breach of the Obligation by the Supplier even if the Supplier has been dissolved or is subject to external administration procedures, including under Chapter 5 of the *Corporations Act 2001* (Cth), or the equivalent legislation in the country of registration of the Supplier.

1.5 Any reference in this Performance Guarantee to the obligations or liabilities of the Guarantor will be construed as a reference to its obligations or liabilities, whether as a guarantor or an indemnifier or both, under this Performance Guarantee. The use of the expression **Guarantor** in this Performance Guarantee is not to be construed as diminishing that party's obligations as an indemnifier. The provisions of this Performance Guarantee which preserve the liability of a party as a guarantor apply, appropriately modified, to any liability which arises whether in regard to that party's guarantee or indemnity under this Performance Guarantee.

2 GUARANTEE AND INDEMNITY

2.1 Subject to **clause** Error! Reference source not found., the Guarantor:

- (a) unconditionally and irrevocably guarantees to the Department that the Supplier will duly and properly perform all of the Obligations; and
- (b) in default of the due and proper performance by the Supplier of any of the Obligations, covenants with the Department to perform the Obligations or cause them to be performed as provided in **clause 5.4**.

2.2 If:

- (a) the Supplier commits any breach of its Obligations, and such breach is not remedied by the Guarantor under this Performance Guarantee and the Agreement is then terminated for default (an "Unremedied Default"); or
- (b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Supplier for any reason (whether or not the Department knew or ought to have known of that reason) or are disclaimed by a liquidator or trustee in bankruptcy, in whole or in part (an "Unenforceability Event"),

the Guarantor as a separate, additional and primary liability irrevocably and unconditionally agrees to indemnify the Department and keep the Department indemnified against losses, damages, costs and expenses (including legal expenses on a solicitor and own client basis) consequent upon or arising out of that Unremedied Default or Unenforceability Event (as the case may be) and pay such amount of losses, damages, costs and expenses directly to the Department on demand.

2.3 The Department will not be required to make any claim or demand on the Supplier or to enforce any right, power or remedy against the Supplier in respect of its Obligations and liabilities under the Agreement before making any claim or demand on the Guarantor under this Performance Guarantee.

2.4 Not used.

2.5 The Guarantor will have the benefit of any defence available to the Supplier under the Agreement.

2.6 The Guarantor agrees to pay the Department:

- (a) any amount payable by it to the Department under this Performance Guarantee when it becomes due for payment; and
- (b) interest on all unpaid amounts, calculated on daily balances at the rate of 4% over the Commonwealth Bank of Australia's indicator interest rate.

2.7 The Guarantor must make payments to the Department under this Performance Guarantee no later than 1:30pm Canberra time on the due date to the account of the Department which the Department designates by notice.

2.8 If a Law requires the Guarantor to withhold or deduct taxes from a payment so that the Department would not actually receive for its own benefit on the due date the full amount provided for under this Performance Guarantee, then:

- (a) the amount payable is increased so that, after that deduction and deductions applicable to additional amounts payable, the Department is entitled to receive as payment under this Performance Guarantee a net amount equal to the full amount it would have been entitled to receive if no withholding or deduction had been required;
- (b) the Guarantor must make the deduction; and
- (c) the Guarantor must pay the full amount deducted to the relevant authority in accordance with applicable Law.

3 CONTINUING GUARANTEE

3.1 The liability of the Guarantor under this Performance Guarantee is absolute and will not be subject to the execution of this Performance Guarantee or any other instrument or document by any person other than the Guarantor, and will not be subject to the performance of any condition precedent or subsequent. The liability of the Guarantor under this Performance Guarantee will not be prejudiced or discharged or in any way

affected by any act omission, matter or thing which, but for this **clause** Error! Reference source not found., **clause** Error! Reference source not found. or **clause** Error! Reference source not found., might release the Guarantor from that liability or reduce that liability of the Guarantor (other than an express release of the Guarantor from all of its liabilities under this Performance Guarantee) including any of the following:

- (a) the winding up or bankruptcy of the Supplier, the Guarantor or any other person; or
- (b) the Agreement or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason, whether past, present or future; or
- (c) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Department or any other party of the Agreement or any Obligation; or
- (d) the transfer, assignment or novation by the Department, the Supplier or the Guarantor of all or any its rights or obligations under the Agreement or this Performance Guarantee; or
- (e) any failure by the Department to disclose to the Guarantor any material or unusual fact or circumstance, event or thing known to, or which ought to have been known by, the Department relating to or affecting the Supplier at any time before or during the currency of any of the Agreement or this Performance Guarantee, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Department was under a duty to disclose that fact, circumstance, event or thing to the Guarantor; or
- (f) any person whether named as a party or not, does not execute the Agreement or the execution of any such document by any person is invalid, forged or irregular in any way; or
- (g) any failure or omission by the Supplier, the Department or any other person to give notice to the Guarantor of any default by the Supplier under the Agreement.

3.2 This Performance Guarantee will continue and remain in full force and effect until the earlier of:

- (a) the performance by the Supplier of the Obligations; or
- (b) subject to **clause 3.3**, the expiration or earlier termination of the Agreement.

3.3 The liability of the Guarantor under this Performance Guarantee will not be prejudiced, discharged or in any way affected by the termination of the Agreement for non-performance of the Obligations.

4 TOTAL LIABILITY

4.1 Other than in respect of liability which arises under **clauses 2.8** or Error! Reference source not found., the total liability of the Guarantor under this Performance Guarantee will not exceed the liability of the Supplier to the Department which arises under or in respect of the Agreement or which would arise if the Agreement remained on foot and was enforceable in every respect against the Supplier. For the avoidance of doubt, the limitations and exclusions of liability in the Agreement in favour of the Supplier, apply equally to the liability of the Guarantor under this Performance Guarantee.

5 THE DEPARTMENT AND SUPPLIER MAY VARY AGREEMENT

- 5.1** The Department and the Supplier may amend or vary the Agreement or agree to any amendment, variation or replacement of any other agreement, contract or arrangements now or in the future in force between the Department and the Supplier without notice to, and without the consent of, the Guarantor (and it will be the obligation of the Supplier to notify the Guarantor of any such amendment, variation or replacement).
- 5.2** Subject to **clause 5.3**, the liability of the Guarantor under this Performance Guarantee will not be prejudiced, discharged or in any way affected by any of the matters referred to in **clause 5.1** (or by any failure on the part of the Supplier to notify the Guarantor of any amendment, variation or replacement affecting the Agreement) and will extend to cover the Agreement, and any amendments or variations to the Agreement whether or not those amendments or variations are substantial or material or impose additional liabilities on or disadvantages the Supplier.
- 5.3** The acceptance by the Department of any amount, or substituted or modified obligation, in partial satisfaction of any of the Obligations of the Supplier to the Department under the Agreement will reduce and discharge the obligations of the Guarantor to the Department under this Performance Guarantee in the same amount and measure.
- 5.4** The Guarantor must, if required by the Department, complete or arrange to complete any of the Obligations of the Supplier which were unfulfilled at the time the Supplier failed to remedy any breach of such Obligations (at the completion of the appropriate notice period under the Agreement to rectify such breach).

6 THE DEPARTMENT MAY GRANT INDULGENCE OR REFRAIN

- 6.1** Subject to **clause 5.3**, the Department may:
- (a) grant any time, waiver or other indulgence or consideration or concession to the Supplier or the Guarantor or make any composition arrangement or compromise with the Supplier; or
 - (b) forebear to require the Supplier to pay any money or to do or refrain from doing any act, matter or thing (whether deliberately, negligently, unreasonably or otherwise) which the Supplier by the Agreement has agreed to pay or do or not to do,
- without affecting the liability of the Guarantor under this Performance Guarantee.
- 6.2** Nothing in this Performance Guarantee or any circumstance arising out of this Performance Guarantee or its performance gives rise to any relationship of agency, partnership or employment between the Department and the Guarantor.

7 WAIVER BY GUARANTOR

- 7.1** The Guarantor waives in favour of the Department, so far as may be necessary to give effect to anything contained or implied in this Performance Guarantee, all rights of subrogation, contribution or marshalling against the Department, the Supplier and any other person or any estate or asset.
- 7.2** If the Supplier makes any arrangement, assignment or composition for the benefit of creditors, becomes bankrupt or goes into liquidation, the Guarantor will not prove in competition with the Department until any Obligation or liability of the Supplier to the Department has been satisfied in full. The Guarantor authorises the Department to prove for all money, which the Guarantor has paid under this Performance Guarantee, and to appropriate any money so received until the Department has received all money due to the Department in respect of the indebtedness or liabilities of the Supplier under or arising out of the Agreement.

7.3 If the Guarantor makes any arrangement, assignment or composition for the benefit of creditors, becomes bankrupt or goes into liquidation, the Department will be entitled to prove for the money guaranteed by this Performance Guarantee and all other money payable under or in connection with this Performance Guarantee.

8 TAXES

8.1 Subject to the terms of the Agreement, the Guarantor will on demand by the Department pay any taxes, including stamp duty and GST on or in connection with this Performance Guarantee.

9 NOTICES

9.1 A notice or other communication in connection with this Performance Guarantee must be in writing, must be given by a method prescribed in **clause 9.2** and must be given to the party to whom it is addressed or directed at the address shown for that party on the front page of this Performance Guarantee.

9.2 Any notice or other communication must be served as follows:

- (a) if the recipient's principal place of business is within Australia - either delivery by a courier service which maintains evidence of receipt and delivery or by hand; or
- (b) if the recipient's place of business is outside Australia - either delivery by an internationally recognised air courier service which records evidence of receipt and delivery or by hand.

9.3 A notice or other communication given under **clause 9.2** is taken to be received:

- (a) if sent by a domestically or internationally recognised courier service, at the time in the location at which such delivery takes place, as shown in the courier's record of delivery; or
- (b) if sent by hand, at the time of actual delivery, as shown by the deliverer's record or testimony.

9.4 If the time of delivery referred to in **clause 9.3** is after the recipient's normal business hours (which, until written notice to the contrary is given by such recipient shall be deemed to be 9.00 a.m. to 5.00 p.m. on a business day in the location of the recipient) the notice, approval, consent or other communication is taken to be received at 9.00 a.m. on the recipient's next business day.

10 CONCLUSIVE CERTIFICATE

10.1 A statement, signed on behalf of the Department by any of its authorised representatives, as to any matter or any amount at the date specified in the statement is conclusive evidence in the absence of manifest error.

11 APPLICABLE LAW

11.1 This Performance Guarantee will be governed by and construed in accordance with the Law for the time being in force in the Australian Capital Territory, and the Guarantor agrees to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory in respect of all matters arising under, or in relation to, this Performance Guarantee.

12 ASSIGNMENT

12.1 Where the ultimate ownership of the Supplier is transferred from the Guarantor to another party, the Guarantor may, with the prior written consent of the Department (which may be granted or withheld by the Department in its absolute discretion), novate its obligations under this Performance Guarantee to that other party.

13 COSTS

- 13.1** Except as otherwise provided in this Performance Guarantee, each party must pay its own costs and expenses and taxes (if any) in connection with negotiating, preparing, executing and performing this Performance Guarantee.

14 SEVERANCE

- 14.1** Any provision of this Performance Guarantee which is illegal, void or unenforceable will be ineffective to the extent only of the illegality, voidness or unenforceability without invalidating the remaining provisions of the Performance Guarantee.

Executed as a deed.

Signed for and on behalf of the
Commonwealth of Australia as
represented by the **Department of
Immigration and Border Protection**
by its duly authorised delegate in the
presence of

Name of delegate (print)

Signature of delegate

Name of witness (print)

Signature of witness

Date

Executed by [Insert Parent Guarantor
Name] by its duly authorised
representative in the presence of

Signature
[Insert name]

Signature of witness
[Insert name]

[Insert Position]

[Insert Position]

Date

SCHEDULE 15
AUTHORITY TO ACT FORM

CONTENTS

AUTHORITY TO ACT FORM 1

AUTHORITY TO ACT FORM

I, _____ (**NAME**) who hold the position of _____
 _____ (**POSITION**) at _____
 (**SUPPLIER NAME**), _____ (**SUPPLIER ADDRESS**),

acknowledge and agree as follows:

1. I am a Designated Agent for the purposes of **clause 3** of the **Terms and Conditions** of the Agreement for the provision of client enquiry and related services between **[INSERT SUPPLIER NAME] (Supplier)** and the Commonwealth of Australia, as represented by the Department of Immigration and Border Protection (**the Department**) (**Agreement**);
2. In my role as a Designated Agent, I will, at all times act:
 - a. in good faith and in the interests of the Department;
 - b. diligently, effectively and to a high professional standard with due care and skill;
 - c. strictly in accordance with:
 - i. the requirements of this Agreement, including Schedule 13 (**Applicable Requirements**), and in particular all Laws, policy and practice requirements relating to the Commonwealth's financial management framework, including Public Governance, Performance and Accountability Act 2013 (Cth), the Public Governance, Performance and Accountability Rule 2014 and the Auditor-General Act 1997 (Cth); and
 - ii. all guidelines and directions that the Department notifies from time to time to the Supplier; and
 - d. where receiving or expending moneys as agent on behalf of the Department or committing the Department to the expenditure of funds, as a fiduciary.

Signed by the Designated Agent:

_____ Dated:

SCHEDULE 16
CONFIDENTIAL INFORMATION

CONTENTS

CONFIDENTIAL INFORMATION.....3

CONFIDENTIAL INFORMATION**DETAILS OF CONFIDENTIAL INFORMATION**

1.1 The Parties agree that the information set out in this Schedule 16 is Confidential Information and confidentiality should be retained for the period specified below.

1.1.1 Department Confidential Information

Department Confidential Information	Reasons for Confidentiality	Period of Confidentiality (refer to clause 27)
Department Data	<p>Disclosure would adversely impact on the Department's operations.</p> <p>Department Data is sensitive in operational nature for the continuance of the Department's objectives.</p>	Entire Term of the Agreement

1.1.2 For the purposes of the confidentiality obligations in this Agreement, Client Data must be protected as if it were Department Material.

1.1.3 Supplier's Confidential Information

Supplier Confidential Information	Reasons for Confidentiality	Period of Confidentiality (refer to clause 27)

SCHEDULE 17
CONFIDENTIALITY UNDERTAKING

CONTENTS

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Deed of undertaking in relation to Personal Information and Confidential Information**Deed Poll made at [INSERT LOCATION] on [INSERT DATE]****Parties****By [INSERT SUPPLIER NAME]****[INSERT SUPPLIER ADDRESS]**

("Confidant")

In Favour Of COMMONWEALTH OF AUSTRALIA, as represented by the

Department of Immigration and Border Protection ("the Department")

ABN 33 380 054 835

of 6 Chan Street BELCONNEN ACT 2617 Australia

Operative provisions**1. GENERAL**

- (a) [INSERT SUPPLIER NAME] ("Supplier") and the Department are parties to an Agreement for the provision of Client Enquiry Services (the "Agreement") dated [INSERT DATE].
- (b) The Confidant acknowledges that in the course of performing duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement), the Confidant may have access to Personal Information and / or Department Confidential Information.
- (c) The Confidant agrees to treat all Personal Information (including in Client Data) and Department Confidential Information with the utmost care and to protect that information at all times in accordance with all security and privacy requirements imposed by this Confidentiality Deed.

2. PRIVACY AND PERSONAL INFORMATION

- (a) The Confidant acknowledges and agrees that it may not access, use, disclose, publish, communicate or retain, or otherwise deal in any way with, Personal Information except in the course of performing its duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement).
- (b) The Confidant acknowledges and agrees with respect to all Personal Information acquired by the Confidant in the performance of its duties in relation to the Agreement or a subcontract to the Agreement:
 - (i) to comply with the provisions of the *Privacy Act 1988* (Cth) ("Privacy Act"), including the Australian Privacy Principles, as if the Confidant were an "Agency" within the definition of that Act;

- (ii) that failure by the Confidant to comply with the obligations under Privacy Act in accordance with **clause 2(b)(i)** may result in the Department taking action against the Confidant (including, without limitation, disciplinary action);
- (iii) to cooperate with any reasonable demands or enquiries made by the Commonwealth Privacy Commissioner;
- (c) The Confidant agrees that its obligations under this Confidentiality Deed are in addition to, and do not restrict, any obligations it may have under:
 - (i) the Privacy Act; or
 - (ii) any privacy codes or privacy principles contained in, authorised by or registered under any statute, regulation, by-law, ordinance or subordinate legislation,

3. THE DEPARTMENT CONFIDENTIAL INFORMATION

- (a) The Confidant must not:
 - (i) disclose Department Confidential Information and Client Data;
 - (ii) reproduce any document containing, or referring to, any Department Confidential Information and Client Data nor allow any other person to use or reproduce any such document; or
 - (iii) use Department Confidential Information and Client Data,

except as strictly required for the purpose of providing the Services under the Agreement or a subcontract under the Agreement.
- (b) The Confidant must take all reasonable steps to ensure that Department Confidential Information and Client Data, and all documents containing, or referring to, any Departmental Confidential Information and Client Data, are protected at all times from any unauthorised use, copying, disclosure or access.

4. DELIVERY UP OF DOCUMENTS

- (a) In this **clause 4**, "**documents**" includes any form of storage of information, whether visible to the eye or not.
- (b) The Confidant must:
 - (i) immediately on request of the Department or a person authorised by the Department (without needing to produce the demand in writing) deliver up to the Department:
 - A. all of the Personal Information or Department Confidential Information;
 - B. all alterations, modifications, developments and enhancements to, copies of, extracts from or notes on, Department Confidential Information and Personal Information in whatever form; and

- C. all materials related to or in any way associated with Department Confidential Information and Personal Information, in the Confidant's possession, power or control; or
 - (ii) immediately on the request of the Department or a person authorised by the Department:
 - A. destroy the documents mentioned in clause 4(b)(i) and in the case of computer data, this must be done by a method of erasing it from the media on which it is stored so that it cannot in any way be recovered, reconstructed or reconstituted; or
 - B. otherwise deal with the document mentioned in clause 4(b)(i), as the Department directs,

and the Confidant will then promptly certify in writing to the Department that all of the documents mentioned in clause 4(b)(i) have been delivered up, destroyed or dealt with as directed.
- (c) If the Department makes a demand under this clause 4, and the Confidant has placed documents containing the Personal Information or Department Confidential Information, or is aware that documents containing the Personal Information or Department Confidential Information are, are beyond his or her possession or control, then the Confidant must provide full details of where the documents containing the Personal Information or Department Confidential Information are, and the identity of the person in whose custody or control they lie.
- (d) The Confidant acknowledges that the Department may take legal proceedings against the Confidant if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

5. SECURITY

The Confidant will:

- (a) give the Department all reasonable assistance in connection with any security checks the Department wishes to make of the Confidant and its background (including by providing information usually requested in such circumstances);
- (b) maintain proper and secure custody of all Department Confidential Information and Personal Information which is in its possession or under its control;
- (c) use its best endeavours to prevent the use or disclosure of the Department Confidential Information or Personal Information by third parties contrary to this Deed;
- (d) immediately notify the Department in writing of any suspected, expected or actual unauthorised use, copying or disclosure of the Confidential Information or Personal Information contrary to this Deed; and
- (e) give the Department all reasonable assistance in connection with any action or proceeding which the Department may institute against any

person relating to any unauthorised use, copying or disclosure of the Department Confidential Information or Personal Information, and with any investigation the Department may initiate into any suspected, expected or actual unauthorised use, copying or disclosure of the Department Confidential Information or Personal Information.

6. CONFLICT OF INTEREST

The Confidant warrants that no conflict of interest exists or is likely to arise in the course of providing the Services and that it will not permit any situation to arise or engage in any activity during the provision of the Services which may result in a conflict of interest.

7. CRIMINAL LIABILITY

The Confidant acknowledges that:

- (a) section 3(1) of the *Crimes Act 1914* (Cth) states that the term "Commonwealth officer" includes, for the purpose of section 70 of that Act, a person who "performs services for or on behalf of the Commonwealth";
- (b) the publication or communication by a Commonwealth officer of any fact or document which has come to its knowledge or into the person's possession or custody by virtue of the person's being a Commonwealth officer (other than to a person to whom the Commonwealth officer is authorised to publish or disclose the fact or document) may be an offence under section 70 or 79 of the *Crimes Act 1914* (Cth), punishment for which may be a maximum of two (2) (section 70) to seven (7) (section 79) years imprisonment;
- (c) any unauthorised access, alteration, removal, addition, possession, control, supply or impediment to the access, reliability, security or operation of information held in any computer (or, in some cases, any storage device) in the course of performing duties in relation to the Agreement (including any subcontract entered into for the purposes of the Agreement) may be an offence under Part 10.7 of the *Criminal Code Act 1995* (Cth) of which there are a range of penalties, including a maximum of 10 years imprisonment;
- (d) it is an offence under Division 137 of the *Criminal Code Act 1995* (Cth) to knowingly give false and misleading information (in a material particular) to the Commonwealth or its officers or agents; and
- (e) it is aware of the effect of Part 6 of the *Australian Border Force Act 2015* (Cth) dealing with secrecy and disclosure of protected information.

8. INDEMNITY

The Confidant indemnifies the Department against any claim or Loss incurred by the Department which is caused or contributed to by the Confidant's failure to comply with this Confidentiality Deed.

9. SURVIVAL

The Confidant acknowledges and agrees that this Confidentiality Deed survives the expiry or termination of this Confidentiality Deed.

10. GOVERNING LAW

This Confidentiality Deed is governed by, and construed in all respects in accordance with, the Law of the Australian Capital Territory, Australia and the Confidant agrees to submit to the non-exclusive jurisdiction of the Courts of Australian Capital Territory, Australia in respect of all matters arising under, or in relation to, this Confidentiality Deed.

11. INTERPRETATION

In the Agreement unless the contrary intention appears, capitalised terms have the meaning set out in this **clause 9**.

"Client Data" means information about any Client, either provided by the Client during the Enquiry Process or already held by the Department or the Supplier.

"Confidentiality Deed" means this Deed of undertaking in relation to Personal Information and Confidential Information made by the Confidant in favour of the Department.

"Department Confidential Information" means information that:

- (a) is by its nature confidential;
- (b) is designated by the Department as confidential (and this includes Department Data;
- (c) the Supplier knows or ought to know is confidential;

and includes to the extent that it is confidential:

- (d) information comprised in or relating to any of the Department's Intellectual Property Rights;
- (e) information provided by the Department and incorporated into any training materials in relation to the Supplies;

but does not include information which:

- (f) is or becomes public knowledge other than by breach of this Confidentiality Deed or the Agreement, or any confidentiality obligation or the *Privacy Act* 1988 (Cth); or
- (g) has been independently developed or acquired by the Supplier as established by written evidence;

"Department Data" means all data and written information relating to the Department, Clients and/or any other Commonwealth Department which is provided to or created by or on behalf of the Supplier in the course of fulfilling the Services Requirements, including data or information about any of Departmental operations, facilities, personnel, assets, products, programs, and the Services Requirements. Department Data includes Department Material.

"Department Material" means any Material, the Intellectual Property Rights in which are owned by the Department or any Australian Government Department, which is used to provide, or which forms part of, the Services Requirements, and

shall include all Modification to such Material. Department Material includes Departmental Data.

"Intellectual Property Rights" includes all copyright and neighbouring rights, all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets and know how) and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

"Loss" means all directly incurred losses, liabilities, damages, awards, orders, decisions and Claims (including, in the case of the Department, the directly incurred losses, liabilities, damages and Claims of Services Recipients and including, in the case of the Supplier, the directly incurred losses, liabilities, damages and Claims of the Material Subcontractors), and all related costs, expenses and payments made to third parties (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties).

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; and includes

- (h) Department Data, relating to individuals;
- (i) Client Data; and

"Privacy Act" means the *Privacy Act* 1988 (Cth).

Executed as a Deed Poll

SIGNED, SEALED AND DELIVERED by:

Signature of Confidant

Name of Confidant

In the presence of:

Signature of witness

Name

Attachment E –Industry Briefing Registration Form



Australian Government

Department of Immigration and Border Protection

REQUEST FOR TENDER
For the provision of Innovative Client Enquiry Services
DIBP RFT 11/16

Name of Tenderer: _____

ACN/ABN: _____

Registered Business Address:

State: _____ **Postcode:** _____

Contact Name: _____

Telephone: _____

Email: _____

REGISTRATION INFORMATION

1. Registration Form

- 1.1. This Registration Form must be used by Tenderers to apply to register to attend an industry briefing; for the Provision of Innovative Client Enquiry Services Request for Tender (RFT) 11/16.
- 1.2. Tenderers must submit a properly completed Registration for Industry Briefing Form at Appendix A (**Registration Document**) prior to the Industry Briefing registration closing time.

2. How to submit documents

- 2.1. The Registration Document must be submitted by scanning the completed document and sending it by email to: ces.procurement@border.gov.au.
- 2.2. Tenderers that do not submit the Registration Document in accordance with the requirements of this clause 2 will not be provided with access to the industry briefing.
- 2.3. Tenderers must complete the following to receive access:
- a) whether or not they will be attending the industry briefing (in Table 1 of Appendix A); and
 - b) if they will be attending the industry briefing, the names, positions and email addresses of all attendees for the industry briefing (in Table 2 of Appendix A).

3. Provision of Documentation

- 3.1. Documentation on the industry briefing will be sent to the email address listed on the cover page of this Industry Brief Registration Form to those Tenderers that have submitted the Registration Document that complies with the requirements of clause 2.
- 3.2. Tenderers are advised that it may take approximately one (1) Business Day after submission of the Registration Document for the details about accessing the industry brief to be sent out to the Tenderer.

4. Questions regarding Registration Documents

- 4.1. Tenderers that have any questions about the proper completion of the Registration Document should email the Contact Officer at ces.procurement@border.gov.au.
- 4.2. Tenderers should note that a response may take a minimum of one (1) Business Day.

5. Checklist for Tenderers

Item	Task	Completed
1.	Complete details on the Industry Briefing Form (Appendix A) as detailed in clause 2.	<input type="checkbox"/>
2.	Scan and email Tender Registration Document to the Contact Officer at: ces.procurement@border.gov.au .	<input type="checkbox"/>

Appendix A

REGISTRATION FORM – Industry Briefing**1. Industry Briefing registration**

- 1.1. In accordance with Part 2, clause **Error! Reference source not found.** of the RFT Terms and Conditions, Tenderers may register to attend the industry briefing.
- 1.2. The industry briefing will be held in Canberra as detailed in Part 1 of the RFT.
- 1.3. Tenderers may nominate a maximum of five (5) personnel to attend the industry briefing.
- 1.4. Participation at the industry briefing is not a Condition for Participation.
- 1.5. Tenderers are required to make their own travel and accommodation arrangements to attend the industry briefing.
- 1.6. Tenderers should indicate in Table 1 below, whether or not they will be attending an industry briefing. All Tenderers that wish to attend the industry briefing must pre-register by completing the relevant parts of Table 2 of this Registration for Industry Briefing Form and emailing the completed document to: ces.procurement@border.gov.au prior to the Industry Briefing closing time as detailed in Part 1 of the RFT.
- 1.7. The Department will then confirm the Tenderer's attendance at the industry briefing and provide the industry briefing arrangements.
- 1.8. The presentation provided at the industry briefing along with transcript of any questions and answers arising from the industry briefing will be published on AusTender following the industry briefing for the information of all Registered Tenderers.
- 1.9. Any questions asked at the industry briefing may be taken on notice and answered in the form of an addendum to the published RFT documentation.
- 1.10. For further details and conditions in relation to the industry briefing, Tenderers should refer to clause **Error! Reference source not found.** of Part 2 of the RFT Terms and Conditions.

Table 1 – Confirmation of Attendance

Attendance Options	Option (select an option)
Our organisation will be nominating officers to attend the industry briefing	<input type="checkbox"/>
Our organisation will not be nominating officers to attend the scheduled industry briefing	<input type="checkbox"/>

Table 2 – Attendee Details

No	Name of Attendee	Position	Email Address
1			
2			
3			
4			
5			

CHECKLIST

Note to Tenderers: This checklist is provided as guidance only for you to confirm that you have enclosed all relevant Material in your Tender.

Tender Lodgement

Subject	Item to be checked	Checked
Tender Presentation	Have the correct number of copies in the correct format been uploaded to AusTender?	<input type="checkbox"/> yes <input type="checkbox"/> no
	Have all Tenderer Forms been included in the Tender?	<input type="checkbox"/> yes <input type="checkbox"/> no

Compliance with mandatory requirements

Subject	To be Provided	Compliance
Minimum Content and Format Requirements (refer to Part 1 of the RFT)	1. The Tenderer must Tender for all the Services in Attachment B (Statement of Requirement). No Tenders for only part of the Services will be allowed.	<input type="checkbox"/> yes <input type="checkbox"/> no
	2. The Tenderer must attach to its Tender a copy of the Tenderer Declaration substantially in the form set out in Form 2 of Attachment F (Tenderer Response Forms).	<input type="checkbox"/> yes <input type="checkbox"/> no
	3. The Tenderer must comply with AusTender lodgement requirements and procedures.	<input type="checkbox"/> yes <input type="checkbox"/> no
	4. Measurements in the Tender must be expressed in Australian legal units of measurement.	<input type="checkbox"/> yes <input type="checkbox"/> no
Conditions for Participation (refer to Part 1 of the RFT)	1. The Tenderer must submit the Tender by the Closing Time.	<input type="checkbox"/> yes <input type="checkbox"/> no
	2. The Tenderer must be financially and commercially viable to perform the Services (please see Form 7 (Details of financial viability and commercial viability of Tenderer) in Attachment F (Tenderer Response Forms)	<input type="checkbox"/> yes <input type="checkbox"/> no
	3. The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not paid the claim. [Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]	<input type="checkbox"/> yes <input type="checkbox"/> no

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Subject	To be Provided	Compliance
	<p>4. The Tenderer, its personnel, and any Subcontractors proposed in the Tender must not, at the Tender Closing Time, be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth).</p> <p>[Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]</p>	<input type="checkbox"/> yes <input type="checkbox"/> no
	<p>5. The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the Consolidated list referred to in Regulation 40 of the <i>Charter of United Nations (Dealing with Assets) Regulations 2008</i> (Cth).</p> <p>[Note to Tenderers: This Condition for Participation is addressed in the Tenderer Declaration at Form 2 of Attachment F (Tender Response Forms).]</p>	<input type="checkbox"/> yes <input type="checkbox"/> no

Other information/documentation to be lodged

Subject	To be Provided	Reference	Compliance
Tenderer's and Subcontractors information	A Completed Tenderer and Subcontractor Details Form.	Form 1	<input type="checkbox"/> yes <input type="checkbox"/> no
Tenderer Declaration	Completed Tenderer Declaration Form.	Form 2	<input type="checkbox"/> yes <input type="checkbox"/> no
Executive Summary	An executive summary of the Tender in less than two (2) A4 pages and 500 words.	Form 3	<input type="checkbox"/> yes <input type="checkbox"/> no
Response to Evaluation Criteria	Completed Tenderer's response to Evaluation Criteria.	Forms 4A-4D	<input type="checkbox"/> yes <input type="checkbox"/> no
Pricing Response	Completed Pricing Response (to be submitted separately from the Tenderer's response to the Evaluation Criteria).	Form 5	<input type="checkbox"/> yes <input type="checkbox"/> no
Confidential Information	List of information that the Tenderer requests to be treated as confidential following the award of a Deed, if any, specifying the information and giving reasons why it is necessary to keep the information confidential.	Form 6	<input type="checkbox"/> yes <input type="checkbox"/> no
Financial viability and commercial viability of the Tenderer	Evidence of financial viability and commercial viability of the Tenderer.	Form 7	<input type="checkbox"/> yes <input type="checkbox"/> no
Financial viability and commercial viability of Key Subcontractors	Evidence of financial viability and commercial viability of the Key Subcontractors.	Form 8	<input type="checkbox"/> yes <input type="checkbox"/> no
Statement of Non-Compliance	List of any partial compliance or non-compliance with any clauses of this RFT (including Attachment B (Statement of Requirement) and Attachment D (Draft Agreement) and its various Schedules stating reasons. List of any Direct Competitors.	Form 9	<input type="checkbox"/> yes <input type="checkbox"/> no
Indigenous Procurement Policy	Tenderer's Indigenous Procurement Policy response.	Form 10	<input type="checkbox"/> yes <input type="checkbox"/> no
Risk Management Plan	A draft Risk Management Plan.	Form 11	<input type="checkbox"/> yes <input type="checkbox"/> no
Implementation Plans	A draft Transition In Plan. s47C A draft Transition Out Plan.	Form 12	<input type="checkbox"/> yes <input type="checkbox"/> no
Quality Management Plan	A draft Quality Management Plan.	Form 13	<input type="checkbox"/> yes <input type="checkbox"/> no

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Subject	To be Provided	Reference	Compliance
Security Risk Management Plan	A draft Security Risk Management Plan.	Form 14	<input type="checkbox"/> yes <input type="checkbox"/> no
Enquiry Handling Operations Plan	A draft Enquiry Handling Operations Plan.	Form 15	<input type="checkbox"/> yes <input type="checkbox"/> no
Business Continuity Plan	A draft Business Continuity Plan.	Form 16	<input type="checkbox"/> yes <input type="checkbox"/> no
Project Management Plan	A draft Project Management Plan.	Form 17	<input type="checkbox"/> yes <input type="checkbox"/> no
Training Plan	A draft Training Plan.	Form 18	<input type="checkbox"/> yes <input type="checkbox"/> no
IT Operations Plan	A draft IT Operations Plan.	Form 19	<input type="checkbox"/> yes <input type="checkbox"/> no
Resource Plan	A draft Resource Plan.	Form 20	<input type="checkbox"/> yes <input type="checkbox"/> no
Stakeholder Engagement Plan	A draft Stakeholder Engagement Plan.	Form 21	<input type="checkbox"/> yes <input type="checkbox"/> no
Policies and Procedures Manual	A draft Policies and Procedures Manual	Form 22	<input type="checkbox"/> yes <input type="checkbox"/> no
Intellectual Property Register	A list of any intellectual property relevant to the Services.	Form 23	<input type="checkbox"/> yes <input type="checkbox"/> no
Sources of Assistance	A list of any individuals and organisations who have informed the preparation of the Tender.	Form 24	<input type="checkbox"/> yes <input type="checkbox"/> no
RFT Questions Form	All enquiries to the Department in connection with the RFT should be made using this form.	Form 25	<input type="checkbox"/> yes <input type="checkbox"/> no
Contents	Contents providing sufficient indexing of the Tender.	To be provided separately by Tenderer	<input type="checkbox"/> yes <input type="checkbox"/> no

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Form 1: Tenderer and Subcontractor Details

TENDERER DETAILS

The Tenderer should provide all the information requested in the following table in the Tenderer response section below.

Note to Tenderers: If the Tenderer is part of the consortium or corporate group the table below should include the details of the entity nominated to be the prime supplier to the Agreement.

Tenderer details				
Business or trading name				
Full legal name of Tenderer				
Entity type (e.g. company, sole trader, incorporated association, statutory authority, partnership, trustee on behalf of a trust or other (as specified))				
ABN (if applicable)				
Is the Tenderer registered for GST?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
ACN or ARBN (if applicable)				
Details of principal place of business / head office (including street address, telephone and fax number)				
Details of registered office				
Address for notices (if same as 'registered office' above, please write 'as above')				
Date and place of incorporation or registration of business (if applicable)				
Tenderer's business internet address				
Is the Tenderer a Large Business, Small to Medium Enterprise or Small Business?				

Note to Tenderers: Tenderer to provide details of the Tenderer's representative during the RFT Process in the table below.

Nominated Contact details	
Surname	
First name	
Position	

Nominated Contact details	
Telephone number	
Facsimile number	
Mobile phone number	
Email address	
Postal address	

Secondary Contact details	
Surname	
First name	
Position	
Telephone number	
Facsimile number	
Mobile phone number	
Email address	
Postal address	

REFEREE DETAILS

The Tenderer should provide three (3) referees, including a primary contact for the referee, a description of the goods and/or services provided to the referee and an indication of whether there is a current agreement in place or when it ceased. Where possible, referees should be from entities where the Tenderer has provided goods and/or services of a similar description, volume or value to the Services described in **Attachment B** (Statement of Requirement) to this RFT.

Referee Contact details	
Surname	
First name	
Position	
Telephone number	
Mobile phone number	
Email address	

Tenderer Response:

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PROPOSED SUBCONTRACTOR DETAILS

The Tenderer should complete the following table for **each** nominated Subcontractor (if any).

The Tenderer should note that in accordance with paragraph 7.19 of the *Commonwealth Procurement Rules* the names of Subcontractors may be publicly disclosed. Tenderer's must inform relevant Subcontractors that the Subcontractor's participation in fulfilling the Agreement (if any) may be publically disclosed and obtain their consent to any such disclosure.

Note to Tenderers: the Tenderer will be required to provide details of the financial and commercial viability of Key Subcontractors (see Form 8 of Attachment F (Tender Response Forms) of this RFT).

Subcontractor 1	
Is the proposed Subcontractor a Key Subcontractor?	<input type="checkbox"/> yes <input type="checkbox"/> no
Business or trading name	
Full legal name of legal entity	
Entity type (e.g. company, sole trader, other (as specified))	
ABN	
ACN or ARBN (if applicable)	
Details of principal place of business / head office (including street address, telephone and fax number)	
Details of the part(s) of the Services which are proposed to be delivered by the Subcontractor and summary of their responsibilities	

If Subcontractors have been nominated, the Tenderer should provide a minimum of two (2) referees of organisations that the Subcontractor has provided similar products and services for, together with their contact details.

Referee Contact details	
Surname	
First name	
Position	
Telephone number	
Mobile phone number	
Email address	

Tenderer Response:

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If a proposed subcontractor is a Small to Medium Enterprise (**SME**) or Indigenous organisation, the Tenderer should specify the organisation name, the percentage of involvement and respective dollar value of SME or Indigenous organisation participation, if any, for the provisions of the Services that the respective Subcontractor is to undertake.

Subcontractor 1	
Subcontractor name	
ABN	
ACN or ARBN (if applicable)	
Percentage of involvement	
Value of participation	

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Form 2: Tenderer Declaration

TENDERER DECLARATION

The Tenderer must provide a completed Tenderer Declaration in the form of below. This is a Minimum Content and Format Requirement.

The Tenderer must complete, sign and scan the Deed Poll set out below and submit the Deed Poll as part of its Tender. Submission of an executed Tenderer's Declaration substantially in the form set out below is a Minimum Content and Format Requirement (see **Part 1** of the RFT).

DEED POLL MADE AT **ON**

By of (Representative), on behalf of (the Tenderer)

In favour of Commonwealth of Australia represented by the Department of Immigration and Border Protection
 ABN 66 015 286 036 of 6 Chan Street, Belconnen, ACT, 2617 ('the Department' or 'DIBP')

BACKGROUND

- A. The Department has released Request for Tender 11/16 (RFT) for the provision of Client Enquiry Services.
- B. The Tenderer seeks to participate in the RFT Process.

OPERATIVE PROVISIONS

1. Preamble

- 1.1 The Representative holds the position of of the Tenderer and is duly authorised to execute this Deed Poll on the Tenderer's behalf.
- 1.2 The Representative executes this Deed Poll on behalf of the Tenderer.
- 1.3 By this Deed Poll, the Tenderer expresses its interest to participate in the procurement process for the provision of the Services as described in the RFT.

2. Definitions

- 2.1 In this Deed Poll, words and phrases have the same meaning as when used in the RFT and in addition:
 - (a) "Commonwealth" means the Commonwealth of Australia;
 - (b) "Deed Poll" means this deed poll;

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- (c) **"DIBP"** or **"the Department"** means the Department of Immigration and Border Protection;
- (d) **"Related Body Corporate"** has the meaning given in the Corporations Act 2001 (Cth);
- (e) **"Representative"** means the person executing, and duly authorised to execute, this Deed Poll on behalf of the Tenderer and on his or her own behalf;
- (f) **"RFT"** has the meaning given in Recital A to this Deed Poll;
- (g) **"contractual arrangement"** means an agreement in the form of Attachment D (Draft Agreement) to the RFT;
- (h) "Tender" means the response lodged by the Tenderer in connection with the RFT; and
- (i) "Tenderer" means **[insert name, ACN and ABN and registered office or other address of the Tenderer]**, and in this Deed Poll includes the Representative.

3. Interpretation

3.1 In this Deed Poll:

- (a) headings are for convenience only and do not affect interpretation,

and unless the context indicates a contrary intention:

- (b) a reference to legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (c) a reference to a party in this Deed Poll includes that party's executors, administrators, successors and, except in the case of the assignor, that party's permitted assigns or permitted substitutes, including persons taking by way of novation;
- (d) a reference to a part, clause, schedule, exhibit, attachment or annexure is a reference to a part, clause, schedule, exhibit, attachment or annexure of this Deed Poll and a reference to this Deed Poll includes all schedules, exhibits, attachments and annexures to it;
- (e) a reference to a document or agreement (including this Deed Poll), or a provision of a document or agreement, is to that document, agreement, or a provision as amended, supplemented, varied, replaced, ratified or novated from time to time;
- (f) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity;
- (g) a single word includes the plural and vice versa, and a word indicating a gender includes every other gender;

- (h) if a term, word or phrase is defined, another part of speech or grammatical form of that term, word or phrase has a corresponding meaning;
- (i) a reference to a matter being to the knowledge of a person means that the matter is the best of the knowledge and belief of that person after proper inquiry including inquiry which a reasonable person would be prompted to make by reason of knowledge of a fact;
- (j) a reference to proper enquiry includes enquiry which a reasonable person would be prompted to make by reason of knowledge of a fact; and
- (k) the word "includes" in any form is not a word of limitation.

4. Offer and Change of Circumstance

4.1 The Tenderer:

- (a) offers to supply the Services described in the Statement of Requirement on the conditions set out in the RFT at the prices contained in its Tender;
- (b) agrees to participate in the RFT Process in accordance with the RFT; and
- (c) declares that all information in its Tender is true and correct in every respect.

4.2 To the best of the Tenderer's knowledge and belief after having made proper enquiry, the Tender is accurate and not misleading. The Tenderer acknowledges that if it is found to have made false or misleading claims or statements, or to have used confidential information, or received improper assistance, except in accordance with the RFT, the Department may reject at any time any Tender lodged by or on behalf of the Tenderer.

4.3 The Tenderer agrees that:

- (a) its Tender remains valid and open for acceptance by the Department for twelve (12) months commencing on and from the Closing Time;
- (b) its Tender may be accepted by the Department at any time before the expiration of that period or as agreed between the Tenderer and the Department;
- (c) its Tender will not be or be deemed to be accepted except as specified in the RFT;
- (d) it will notify the Department promptly of any change, after submission of its Tender, to the basis upon which it will have access to the necessary skills or resources, or corporate or financial backing, to supply the Services; and
- (e) that the Department is not bound to accept the lowest priced or any Tender.

- 4.4 Where a change would alter any of the information (including, without limitation, the corporate structure, ownership structure, or the basis upon which the Tenderer will have access to the necessary skills, resources or corporate and financial backing to provide the Services) or assurances that the Tenderer has given in its Tender, the Tenderer undertakes to promptly to notify the Department in writing and:
- (a) identify with specificity (including all relevant page, section, clause, schedule, exhibit and other like references to its Tender, and any other material and information provided to the Department) all such information and assurances; and
 - (b) state in detail the alterations to such information and assurances required by such change.

5. Tenderer's conduct

- 5.1 The Tenderer represents that to the best of its knowledge and belief after having made proper enquiry:
- (a) it has not made any false declarations in respect of any current or past dealings with the Department or any other Agency including in any procurement process or in any contract for goods or services;
 - (b) it has had no significant deficiency in the performance of any substantive requirement or obligation under any prior contract with the Department or any other Agency which would materially adversely affect the Tenderer's ability to provide the Services as required;
 - (c) it has the skills and resources (including, without limitation, corporate and financial resources), or will be able to obtain such skills and resources, likely to be required to properly provide the Services in accordance with the Statement of Requirement;
 - (d) the Tender does not contain any false or misleading claim or statement;
 - (e) the Tender has been compiled without the Tenderer:
 - (i) engaging in misleading or deceptive conduct in relation to the tender or the RFT Process;
 - (ii) improperly obtaining Confidential Information; or
 - (iii) receiving improper assistance from any existing or former:
 - A. officer or employee of the Department; or
 - B. consultant, adviser or contractor to the Department;
 - (iv) engaging in any collusive bidding, anti-competitive conduct, unlawful, unethical or other similar conduct with any other Tenderer or any other person in connection with the preparation of their Tender or the RFT Process;
 - (v) attempting to solicit information from or to improperly influence any officer, employee or agent of the Department or violate any

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applicable Laws or Commonwealth policies regarding the offering
of inducements in connection with the RFT Process;

- (vi) approach any officer or employee of the Department other than in the manner set out in the RFT;
 - (vii) otherwise acting in an unethical or improper manner or contrary to any Law.
- 5.2 The Tenderer warrants that it has not attempted and will not attempt, through its Personnel or Subcontractor, to influence improperly any DIBP Personnel in connection with the assessment of the Tender.
- 5.3 The Tenderer warrants that it has complied with all relevant Laws and with Commonwealth policy, in preparing and lodging its Tender and in taking part in the RFT Process.
- 5.4 The Tenderer warrants that neither it, nor any Tenderer Personnel, had knowledge of the Tender (including price) or any other Tenderer, excluding any subcontractors, prior to the Closing Time.
- 5.5 The Tenderer warrants that neither it, nor any Tenderer Personnel, disclosed the Tender (including price) submitted by the Tenderer to any other Tenderer or to any other person or organisation, excluding any subcontractors, prior to the Closing Time.
- 5.6 Prior to the Tenderer submitting its Tender, neither the Tenderer nor any Tenderer Personnel have entered into any contract, agreement, arrangement or understanding that if successful, the Tenderer would pay any money, or would provide any other benefit or other financial advantage, to or for the benefit of any other party who unsuccessfully responded to the RFT.
- 5.7 In lodging its Tender via AusTender, the Tenderer warrants that it has taken reasonable steps to ensure that all Tender files are free from Harmful Code or anything else that might compromise the integrity or security of AusTender or the Department's computing environment.

6. Conflict of Interest

- 6.1 Apart from any actual or potential conflict of interest declared at **clause 12** of this Deed Poll and in accordance with **clause 28.2** of the RFT, at the date of lodging the Tender, no conflict of interest exists or might arise concerning the Tenderer, a member of its consortium, a subcontractor or a Related Body Corporate of the Tenderer, in respect of the RFT Process or the provision of the Requirement under any contractual arrangement arising from the RFT Process.
- 6.2 If at any time during the RFT Process, an actual or potential conflict of interest of the nature specified in **clause 28.1** of the RFT arises, or may arise, the Tenderer will notify the Department in writing of that conflict and describe how it proposes to manage that conflict of interest.

7. Further representations

- 7.1 The Tenderer makes the following further representations to the Department:

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- (a) it is authorised to sell and/or support all products required in the performance of the Services relating to this Tender;
- (b) it has examined the AusTender Terms of Use which are obtainable on the AusTender website (www.tenders.gov.au);
- (c) it has examined the RFT, all documents referred to in the RFT and all other information made available to it and all applicable legislation and policies;
- (d) it has examined all further information which is obtainable by making reasonable enquiries relevant to the risks, contingencies and other circumstances having an effect on its Tender;
- (e) it has satisfied itself as to the correctness and sufficiency of its Tender;
- (f) it has relied entirely on its own enquiries and has not relied on any representation, warranty or other conduct by or on behalf of the Department, except as expressly provided in the RFT or in notices received by it;
- (g) it has accepted and has fully complied with the provisions of the RFT; and
- (h) that it will not, in negotiating the terms of any contractual arrangement with the Department, depart from the information it has provided or statements or claims it has made in its Tender.

8. Acknowledgements

8.1 The Tenderer acknowledges and agrees that:

- (a) it has read the RFT and understands the RFT Process and its requirements. In particular, the Tenderer has considered all paragraphs in **Attachment B** (Statement of Requirement) of the RFT and clauses in **Attachment D** (Draft Agreement) of the RFT and agrees to them, unless otherwise noted in its completed Table of Compliance (refer to **Form 9** of **Attachment F** (Tender Response Forms) of the RFT);
- (b) without limiting or being constrained by any other clause of this Deed Poll, the Tenderer agrees to comply with the RFT, including obligations and acknowledgments contained in the RFT, and acknowledges that the Department may exercise any of its rights in the RFT or in respect of the RFT at any time;
- (c) lodgement of a Tender on time and in accordance with the conditions set in the RFT is entirely the Tenderer's responsibility;
- (d) the Department will not be liable for any loss, damage, costs or expenses incurred by the Tenderer or any other person if, for any reason, a Tender or any other material or communication relevant to this RFT is not received on time, is corrupted or altered or otherwise not received as sent, cannot be read or decrypted or has its security or integrity compromised

- (e) the Department does not warrant that unauthorised access to information and data transmitted by the internet will not occur and that it should take its own measures to protect information transmitted electronically;
- (f) the statements, opinions, projections, forecasts or other information contained in the RFT may change;
- (g) neither the lodgement of the Tender nor the acceptance of any Tender nor any agreement made subsequent to the RFT will imply any representation from or on behalf of the Department that there has been no material change since the date of the RFT or since the date as at which any information contained in the RFT is stated to be applicable;
- (h) except as required by Law and only to the extent so required, neither DIBP, DIBP Personnel and DIBP contractors will in any way be liable to any person or body for any loss, damage, cost or expense of any nature arising in any way out of or in connection with any representations, opinions, projections, forecasts or other statements, actual or implied, contained in or omitted from the RFT; and
- (i) the Department will have received the Tenderer's Tender in reliance on this Deed Poll and that the Department may suffer loss if any of the representations, undertakings, consents or other statements in this Deed Poll or the Tenderer's Tender are misleading or deceptive.

9. Costs

- 9.1 The Tenderer acknowledges that participation in any stage of the RFT Process, or in relation to any matter concerning the RFT, will be at its sole risk, cost and expense. The Tenderer will be, and the Department will not be, responsible in any circumstance for any costs or expenses incurred by the Tenderer related to:
- (a) responding to, or complying with the requirements of, the RFT or the RFT Process; or
 - (b) taking any other action, including any dispute or response, in relation to the RFT or the RFT Process.

10. Corporate capacity

10.1 The Tenderer confirms that:

- (a) it has the capacity to respond to the RFT;
- (b) there are no restrictions under any relevant Law to prevent it from so responding;
- (c) it is financially viable and commercially viable; and
- (d) the Tenderer:
 - (viii) being a corporation - is not under one of the forms of external administration referred to in chapter 5 of the Corporations Act 2001

RFT 11/16 - Attachment F - Tender Response Forms (Cth) and has not had an order made against it for the purpose of placing it under external administration; or

- (ix) being an individual - is not bankrupt and has not entered into a scheme of arrangement with creditors.

11. Security, probity, due diligence and financial checks

11.1 Without limiting **clause 38** of the RFT or clause 11.2 of this Deed Poll, the Tenderer consents and has obtained, or will obtain, all necessary consents (including from subcontractors, Related Bodies Corporate, consortium members and their respective officers or employees), to DIBP and DIBP Personnel:

- (a) performing such security, probity, due diligence and financial investigations and procedures as DIBP, at its absolute discretion, may determine are necessary (including in relation to the Tenderer, any consortium member, their employees, officers, partners, associates, subcontractors or Related Bodies Corporate); and
- (b) seeking any financial information required for the purpose of establishing the financial viability of the Tenderer.

11.2 The Tenderer agrees to provide at its cost, all reasonable assistance to the Department and its nominees to assist it in performing the investigations and procedures referred to in clause 11.1 of this Deed Poll.

12. Declaration of Conflicts of Interest (if any) (see clause 28 of the RFT and clause 6 of this Deed Poll)

12.1 A Tenderer should declare any circumstances or relationships that constitute or may constitute actual or potential conflicts in respect of the RFT or the Tenderer's obligations under the Agreement arising from the RFT Process below. A Tenderer should indicate in detail how it proposes to manage any conflict of interest including any conflict(s) of interest declared below. The Tenderer should identify any relationship between itself and potential S1 and S3 solution providers.

12.2 If at any time prior to entering into the Agreement, an actual or potential conflict of interest arises or may arise, the Tenderer will notify the Department in writing of that conflict and describe how it proposes to manage that conflict.

13. Declaration about Proceedings (see clause 14 of the RFT)

13.1 The Tenderer declares that there are no Proceedings (as defined in clause of the RFT) that, to the best of the Tenderer's knowledge and belief after having made proper enquiry are taking place, pending or threatened, against the Tenderer or a Related Body Corporate where such Proceedings will or have the potential to impact adversely upon either:

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- (a) the Tenderer's capacity to perform and fulfil its obligations if contracted as a result of the RFT Process; or
- (b) the Tenderer's reputation.

13.2 If there are no Proceedings (as defined in **clause 14** of the RFT), indicate "No" below:

13.3 The Tenderer discloses the following Proceedings (as defined in **clause 14** of the RFT):

14. Workplace Gender Equality Act 2012 (Cth)

- 14.1 Under Commonwealth procurement the Tenderer 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 either a registered higher education provider that is an employer, or a natural person or a body or association (whether incorporated or not) being the employer of 100 or more employees in Australia, but does not include the Commonwealth, a State, a Territory or an authority. For more information about the coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000.

Note to Tenderers: Check the relevant box. If you check box (a), please ensure your letter of compliance is attached to this Deed Poll.

- ☐ (a) Yes, the Tenderer is a relevant employer. The Tenderer has attached a current letter of compliance as part of this Tender which indicates my compliance with the *Workplace Gender Equality Act 2012* (Cth).
- ☐ (b) Yes, the Tenderer is a relevant employer. The Tenderer will be providing a current letter of compliance prior to contract.
- ☐ (c) No, the Tenderer is not a relevant employer.

15. Declaration about Illegal Workers

Note to Tenderers: Please delete the option/s which do not apply to you.

15.1 The Tenderer declares that:

- (a) if and any party proposed by the Tenderer to provide any of the Services **[has]/[has not]** received a penalty or order arising from a Court or Tribunal decision in relation to an Illegal Worker; and

- (b) it and any party proposed by the Tenderer to provide any of the Services **[has]/[has not]** fully complied with a penalty or order arising from a Court or Tribunal decision in relation to an Illegal Worker.

Note: see definition of "Illegal Workers" in the Glossary in Attachment A of the RFT.

16. Lobbying Code of Conduct

- 16.1 The Tenderer represents and warrants that it has not engaged in, or procure or encouraged others to engage in, activity that would result in a breach of the Lobbying Code of Conduct or the Australian Public Service Commission (APSC) Circular 2008/04, *Requirements relating to the Lobbying Code of Conduct and Post Separation Contact with the Government* where their activities fall within the scope of the Lobbying Code of Conduct.

17. Employee entitlements

- 17.1 The Tenderer represents that, having made all reasonable enquiries, there are currently no unsettled judicial decisions against the Tenderer in respect of unpaid employee entitlements (not including decisions under appeal).

18. Sanctions

- 18.1 The Tenderer declares neither it, nor any Tenderer Personnel, proposed Subcontractors or *agents* or Related Body Corporates, are listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth).

Note: The list is available from the [Department of Foreign Affairs website](#).

- 18.2 The Tenderer declares neither it, nor any Tenderer Personnel, proposed Subcontractors or agents or Related Body Corporates, are named in the consolidated list referred to in Regulation 40 of the *Charter of United Nations (Dealing with Assets) Regulations 2008* (Cth).

Note: The list is available from the [Department of Foreign Affairs website at http://www.dfat.gov.au/icat/UNSC_financial_sanctions.html](#).

- 18.3 The Tenderer declares it, and any Tenderer Personnel, proposed Subcontractors or agents or Related Bodies Corporates comply with the United Nations Security Council sanctions regimes under the *Charter of the United Nations Act 1945* (Cth) and the *Australian autonomous sanctions regimes under the Autonomous Sanctions Act 2011* (Cth).

Note: Further information is available at <http://dfat.gov.au/international-relations/security/sanctions/sanctions-regimes/Pages/sanctions-regimes.aspx>

19. Other Laws

- 19.1 The Tenderer represents that, to the best of its knowledge after having made proper enquiry, it has complied with, and will continue to comply with:
- (a) any obligations applicable to the Tenderer contained in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth); and
 - (b) all other relevant Laws in preparing and lodging its Tender and taking part in the RFT Process.

20. Governing law

20.1 This Deed Poll is subject to and is to be construed in accordance with the Laws in force in the Australian Capital Territory.

20.2 The Courts of the Australia Capital Territory will have non-exclusive jurisdiction to decide any matter arising out of this Deed Poll.

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EXECUTED AS A DEED POLL

Signed sealed and delivered by **[insert name of Representative]** for and on behalf of **[insert Tenderer's name and ABN]** in the presence of:

|

Signature of Witness

Signature

Name of Witness in full

Name of Signatory

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 3: Executive summary of Tender

EXECUTIVE SUMMARY OF TENDER

The Tenderer should provide an Executive Summary of its solution.

Note to Tenderers: The executive summary is not to exceed two (2) A4 pages and is not to exceed 500 words in length. No Pricing information should be included in the executive summary. Note that the executive summary may be made available to Ministers and other stakeholders. Accordingly, do not include information in the executive summary that the Tenderer would not want disseminated.

A pre-determined structure has not been set. However, the executive summary should include a brief introduction/description of the Tenderer; the strategy the Tenderer intends to implement in meeting the Services; and the key elements the Tenderer considers sets its solution apart from its competitors.

The executive summary should also include any background details necessary to assist the Department's understanding of the Tenderer's Tender. The executive summary should describe the scope of the Tender and include a statement of the overall outcomes the Tenderer is seeking to achieve.

The executive summary is NOT to include any pricing details.

Tenderer Response:

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Form 4A: Tenderer's response to Evaluation Criteria**RESPONSE TO EVALUATION CRITERIA**

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Relative Importance of Evaluation Criteria and Business Requirements

Criticality	Description
Essential	Indicates a requirement without which the achievement of the Services Solution would not be possible, in the opinion of DIBP.
Highly Desirable	Indicates a requirement that is necessary to achieve the intended Services Solution.
Desirable	Indicates a requirement that makes an important contribution to operational and other functions.

Technical Criterion 1 - Technical Capability

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
Ability to Innovate		
The Tenderer is to detail the innovation and automation that it will bring to the Agreement, detailing: the innovation (e.g. the application of artificial	Highly Desirable	

Criterion 1	RELATIVE IMPORTANCE	
Technical Capability – General		
intelligence) and/or automation (e.g. IVR processes); when the Tenderer will bring this to the Services; the dependencies, including on the Department, to bring this to the Services; and the anticipated benefits to the Department and/or the Clients.		
The Tenderer is to detail how they will bring innovation into their approach for data capture and reporting.	Desirable	
Ability to Meet Policy		
The Tenderer is to adhere to the Government's Digital First Agenda. Detail how you will meet this requirement.	Desirable	
The Tenderer is to adhere to the Digital Services Standard, as set out by the Digital Transformation Agency. Detail how you will meet this requirement.	Desirable	
Ability to Deliver the Services		
The Tenderer is to detail how it will provide voice access for Clients. As a minimum the Tenderer is to address access for Clients from: each State and Territory in Australia; and the two most populace Countries of each Continent (excluding Antarctica).	Highly Desirable	
The Tenderer is to detail how they will manage Client	Highly Desirable	

Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
<p>Enquiries when a Service Level is not met, specifically addressing:</p> <ul style="list-style-type: none"> how the Tenderer will ensure calls are not dropped; how the Tenderer will recover any calls that are dropped; how the Tenderer will manage Client Enquiries that fall outside the required Service Levels, including calls that are not answered and speaking to an operator within 90 seconds; how the Tenderer will apply a Service Charge ^{s4} [redacted] for call backs. 		
<p>The Tenderer is to detail how they will meet any sudden increase in demand for the Services, including:</p> <ul style="list-style-type: none"> the provision of additional Supplier Personnel; the time for these personnel to reach proficiency; the capacity and capability of their systems; the capacity of the Supplier Facilities. 	Highly Desirable	
<p>The Tenderer is to detail how they will meet urgent changes to knowledge requirements in response to crises or sudden changes in policy, including:</p> <ul style="list-style-type: none"> the methodology to ensure the Tenderer obtains the required knowledge to meet the new requirement; the processes for updating information in the 	Highly Desirable	

Criterion 1 Technical Capability – General	RELATIVE IMPORTANCE	
systems used to support the Services; and the implementation of training for Supplier Personnel to meet the new requirement.		
The Tenderer is to detail their intended Ticket Management approach to Client Enquiries	Desirable	
Ability to Meet Reporting Requirements		
The Tenderer is to detail how they will meet the reporting requirements in Schedule 11 (Reporting) and otherwise in the Agreement, specifically addressing: how will the Tenderer identify and record repeat callers; how will the Tenderer capture and record data for reporting.	Highly Desirable	

Criterion 1 Technical Capability – Business Requirements		
Ability to Meet the Operational Requirements		
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Implementation Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	

Criterion 1 Technical Capability – Business Requirements		
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the General Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Services Requirements in Schedule 2 (Business Requirements and Supplier Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	
The Tenderer should demonstrate, individually against each requirement, how its solution will meet the Architecture Requirements in Schedule 2 (Business Requirements and Solution) to Attachment D (Draft Agreement) of Part 2 to this RFT	See individual requirements	

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Criterion 1 Technical Capability – Business Requirements		
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Criterion 1 Technical Capability – Draft Plans		
Quality of Draft Plans Tendered		
<p>The Tenderer's attention is drawn to Forms 11 - 22 of Attachment F (Tender Response Forms) to the RFT.</p> <p>Each draft plan will be assessed for its:</p> <ul style="list-style-type: none">Quality;Relevance;Completeness;Conciseness;Ease of Understanding; andEase of Implementation (as applicable). <p>Note to Tenderers: Plans should be specific and not contain generic statements or manuals.</p>	Highly Desirable	

Form 4B: Tenderer's response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 2 - Implementation Approach

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 2 Implementation Approach		
Transition		
<p>The Tenderer should:</p> <p style="padding-left: 40px;">demonstrate its capacity to successfully Transition In;</p> <p style="padding-left: 40px;">describe its proposed approach to Transition In;</p> <p style="padding-left: 40px;">s47C</p> <p style="padding-left: 40px;">describe its proposed approach to Exit the Agreement.</p> <p>[Note to Tenderers: You should include draft Transition Plans as part of your Tender. Please see Form 12 of Attachment F (Tender Response Forms) to the RFT.]</p>	Essential	
Supplier Personnel and Clearances		
The Tenderer should demonstrate its ability to attract, train and retain Supplier Personnel including:	Highly Desirable	

Criterion 2 Implementation Approach		
<p>proposed recruitment activity;</p> <p>evidence where it has successfully conducted similar recruitment for similar implementations; and</p> <p>proposed training services and delivery modality including documentation to meet the Services.</p> <p>[Note to Tenderers: You should include a draft Training Plan as part of your Tender. Please see Form 18 of Attachment F (Tender Response Forms) to the RFT.]</p>		
<p>The Tenderer should identify the key personnel that it will dedicate to the implementation of the Services, including:</p> <p>proposed role;</p> <p>experience relevant to their proposed role;</p> <p>curriculum vitae; and</p> <p>qualifications relevant to their proposed role.</p>	Highly Desirable	
<p>The Tenderer should outline how it will ensure it has the required number of Supplier Personnel with appropriate clearances to manage the Client Enquiry Services. The Tenderer should address, as a minimum, a statement of their understanding of and how they will meet the demands for:</p> <p>transition periods;</p> <p>general staff churn;</p> <p>seasonal surge; and</p>	Highly Desirable	

Criterion 2 Implementation Approach		
<p>urgent changes.</p> <p><i>[Note to Tenderers: In addition to general character and reference checks, appropriate clearances for Supplier Personnel who require Line of Business access include ESC and AGSVA clearances (see Schedule 3 – Security to the Draft Agreement).]</i></p>		

Form 4C: Tenderer's response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 3 - Organisational capability

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 3 Capacity and Organisational Capability		
Capacity		
The Tenderer should demonstrate its capacity to deliver on the solution proposed in Criterion 1, including: technological aspects; personnel aspects; managerial support; administrative support; and facilities, including so as to achieve and maintain all necessary Supplier Facility security accreditations.	Essential	

Criterion 3 Capacity and Organisational Capability		
<p>The Tenderer is to detail how its solution will maximise value to the Department for future increases in client enquiry volumes. This needs to include both:</p> <p>Future increases in onshore enquiries that need to be managed onshore; and</p> <p>Future increases in offshore enquiries that do not need to be managed onshore.</p> <p>[Note to Tenderers: This is a potential future requirement.]</p>	Desirable	
<p>The Tenderer should demonstrate its project governance requirements including appropriate change management, issues management</p>	Desirable	

Criterion 3 Capacity and Organisational Capability		
Experience		
<p>The Tenderer should provide two (2) examples of recent relevant projects where the Tenderer has implemented and operated a solution similar to that proposed for the Department, including:</p> <ul style="list-style-type: none"> a description of the project; key statistics including: <ul style="list-style-type: none"> volumes; value; client demographics; lessons learned; and innovation implemented. 	Highly Desirable	
<p>The Tenderer should provide two case studies detailing where they have successfully transitioned from an insourced to an outsourced service provision model, particularly detailing the client/service provider interfaces.</p>	Highly Desirable	
<p>The Tenderer should provide the details of at least two (2) referees who can attest to past performance in the delivery of like services.</p>	Desirable	

Form 4D: Tenderer's response to Evaluation Criteria

RESPONSE TO EVALUATION CRITERIA

The Tenderer should provide its response to each of the Evaluation Criteria (refer to **Part 3** of the RFT). Each Evaluation Criteria is set out in a different form below. The Tenderer should provide information and copies of documentation supporting claims relevant to the Evaluation Criteria.

Technical Criterion 4 - Continuous Improvement

CRITERIA	RELATIVE IMPORTANCE	RESPONSE
Criterion 4 Continuous Improvement		
Continuous Improvement		
<p>The Tenderer should:</p> <p>explain its approach to delivering continuous improvement throughout the life of the Agreement;</p> <p>s47C</p>	Highly Desirable	
Service Levels		
<p>The Tenderer should:</p> <p>demonstrate how it will meet the Service Levels as detailed at Attachment C (Service Levels), including the processes and procedures that enable it to meet the Service Levels;</p> <p>describe its proposals for Service Levels and Service Level metrics (these may be included in Schedule</p>	Essential	

Criterion 4 Continuous Improvement		
<p>6 (Service Levels and Credits));</p> <p>describe how it will monitor and report on Service Levels as described at Attachment C (Service Levels); and</p> <p>describe proposed Service Rebates (please include these in your Pricing Response in Form 5 of Attachment F (Tender Response Forms).</p>		

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 5: Tenderer's Pricing Response

PRICING RESPONSE

Note to Tenderers: See Separate Document. Tenderers need to complete their Pricing Response set out in this Form 5. The Tenderer's Pricing Response to this Form 5 will be used to develop Schedule 5 - Pricing Schedule to the Draft Agreement.

Form 5: Tenderer's Pricing Response

PRICING RESPONSE

Note to Tenderers: See Separate Document. Tenderers need to complete their Pricing Response set out in this Form 5. The Tenderer's Pricing Response to this Form 5 will be used to develop Schedule 4 - Pricing Schedule to the Draft Contract.

1. Pricing

- 1.1. This **Form 5** sets out the approach to pricing and the Service Charges and payable by DIBP under **Attachment D** (Draft Contract).
- 1.2. The Tenderer should:
 - 1.2.1. complete the Pricing Tables set out in this **Form 5** with its offered Service Charges to provide the Services;
 - 1.2.2. include any assumptions or other caveats on which the pricing in the Pricing Tables is based and the effect of the assumptions or other caveats on Service Charges, as well as information or events required to remove assumptions and caveats on Service Charges, are to be included in the Tender's completed Pricing Response;
 - 1.2.3. provide sufficient information for DIBP to determine whether Service Charges are reasonable in the context of the Commonwealth assessment of value for money; and
 - 1.2.4. if this is an alternative Tender, provide the price differential for any alternative solutions.
- 1.3. In considering their pricing, the Tenderer should take into account that:
 - 1.3.1. DIBP are relying on the expertise of the Tenderer in the provision of the Services;
 - 1.3.2. all costs associated with supply, delivery, installation, connection, testing, licensing, coordinating and administering the Services will be the responsibility of the Tenderer; and
 - 1.3.3. DIBP will not pay any costs for any aspect of the Services unless these are clearly articulated by the Tenderer in this Pricing Response prior to entering into any Contract.
- 1.4. Pricing information specified in the Pricing Tables should:
 - 1.4.1. be inclusive of all charges, expenses and Taxes, subject to the requirements regarding Goods and Services Tax (**GST**);
 - 1.4.2. be inclusive of GST, but identify separately the GST component where required;
 - 1.4.3. apply for the duration of the Tender Validity Period; and
 - 1.4.4. contain all additional information on pricing required by this RFT.

- 1.5. All Service Charges should be submitted in Australian dollars, however hedging of funds is not in accordance with current Australian Government policy and therefore Tenderers may submit pricing in currency other than AUD. Where any portion of the Service Credits is in foreign currency, the Tenderer should clearly specify the currency being used. The Tenderer should not convert any relevant amounts of foreign currency into Australian dollars. In evaluating the Tenderer's pricing response to this **Form 5**, DIBP will apply the relevant exchange rate published by the Reserve Bank of Australia at the Closing Time.

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Assumptions/Qualifications:

Note to Tenderers: Tenderers are to insert details of any assumptions or qualifications on which the Tendered cost is based. The Tenderer will not be allowed to rely on any assumptions made unless they are listed below.

Assumptions/Qualifications

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PRICING TABLES

Please see separate Excel spreadsheet document 'Attachment F – Form 5 – Pricing.xlsx'.

Attachment F - Form 5 - Pricing

Checklist

Note to Tenderers: This checklist is provided as guidance only for you to confirm that you have completed all relevant Pricing responses in your Tender.

Worksheet	Completed	Comment
Checklist		This worksheet.
Proposed Fee Structure		
Cost Element		
s47C		
Innovation		
Economic Benefit		
Alternative Tenders		

Attachment F - Form 5 - Pricing

Proposed Fee Structure

Note to Tenderers: use this table to describe the fee structure you would propose to utilise for the contract. You should provide a description of the fee structure, including the basis of payment (i.e. per call, per minute, per month, etc), what the payment would be (in AUD) and any other information that would be applicable to support the proposed fee structure. This information may be used to support further decisions with regard to pricing and payments during the Agreement (if any). You may submit any number of fee structures. ^{s47C}

^{s47C} The fundamental requirement for this table is to understand your fee structure and the assumptions you have made to support this structure and to this extent you may alter this table as required.

Service Charges (Departmental funded)

Describe your proposed fee structure

Assumptions to build fee structure

Description	Value	Comment
Annual Cost		
Call Volume		
Average Call Time		
WebForm Volume		
Average WebForm Contact Time		
WebChat Volume		
Average WebChat Contact Time		
Social Media Volume		
Average Social Media Response Time		
Other (add as applicable)		
Other (add as applicable)		

^{s47C}

Attachment F - Form 5 - Pricing

Cost Elements

Note to Tenderers: use this table to describe the elements that support the fee structure you propose to utilise for the contract. This information may be used to support further decisions with regard to pricing and payments during the Agreement (if any). The fundamental requirement for this table is to understand ALL of the cost elements that influence your fee structure and to this extent you may alter this table as required.

	Value	Per (e.g. annum / call / unit)	Comment
Transition			
Management			
Staffing			
Recruitment			
Training			
Design			
Build			
Implement			
Other (please specify)			
Operation			
Facilities			
Infrastructure			
Hardware			
Software			
Management Staff			
Operations Staff			
Support Staff			
Other (please specify)			
Projects (breakdown of costs for conducting discrete project activities)			
Project Manager			
Team Lead			
System Architect			
Solution Architect			
Business Analyst			
Developer			
Other (please specify)			
Other (please specify)			
Other			
* identify ALL other cost elements here			

s47C



Attachment F - Form 5 - Pricing

Innovation

Note to Tenderers: You are to use this table to identify any costs that will not be borne by you, and that are not otherwise identified in the Cost Elements, for the implementation of your proposals in accordance with Criterion 1 (Ability to Innovate) in Attachment F - Form 4 - Tender Response Forms. The Department will not be responsible to pay any costs associated with the implementation of the innovation and automation identified unless those costs are identified within this Attachment F - Form 5 - Pricing. You may alter this table as required.

	Value	Per (e.g. annum / call / unit)	Comment
Innovation			
* insert a brief description here. Add an additional row for each innovation.			

Automation			
* insert a brief description here. Add an additional row for each automation.			

Attachment F - Form 5 - Pricing**Broader Benefit to the Australian Economy**

Note to Tenderers: The Department is required to consider the economic benefit of this procurement to the Australian economy. You are to use this table to economic benefit of your proposal to the Australian economy. This headings below are provided as guidance and you may alter this table as required. See the Department of Finance advice at <http://www.finance.gov.au/sites/default/files/guidance-new-rules-10-30-and-10-31-16.pdf> for further guidance.

	Value	Per (e.g. annum / call / unit)	Comment
Better use of Ausralian resources			
* insert a brief description of the benefit here.			
Increases productivity			
* insert a brief description here.			
Increase productivity-enhancing technology development and adoption			
* insert a brief description here.			
Other			

* insert a brief description here. Add additional rows as required.			
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Attachment F - Form 5 - Pricing**Alternative Tenders**

Note to Tenderers: your attention is drawn to Clause 13 Alternative Tenders of the Request for Tender. You should use this table to describe your alternative tender and the fee structure you would propose to utilise for any alternative tenders. The fundamental requirement for this table is to understand your alternative proposal and the associated fee structure and to this extent you may alter this table as required.

Description

* describe your alternative proposal, paying particular attention to where your proposal does not meet the Statement of Requirements.

Fee Structure

* include the structure and costs here.

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Form 6: Details of Confidential Information

DETAILS OF CONFIDENTIAL INFORMATION

To enable the Department to consider whether it agrees to keep specific information confidential, the Tenderer should indicate below what information (if any) it requests be treated as confidential, giving reasons why it is necessary to keep the information confidential.

The Tenderer should have regard to the matters identified in the Department of Finance's "Confidentiality throughout the Procurement Cycle Principles", available at <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/buying/contract-issues/confidentiality-procurement-cycle/principles.html>.

Tenderer Response:

Information requiring confidential treatment	Reason	Confidentiality Period
[Tenderer to insert details]	[Tenderer to insert details]	[Tenderer to insert details]

Form 7: Details of Financial Viability and Commercial Viability of the Tenderer**FINANCIAL VIABILITY AND COMMERCIAL VIABILITY
OF THE TENDERER****Note to Tenderers: This is a Condition for Participation.****Details of Tenderer and Key Subcontractors (if any) should be provided in Form 1 of Attachment F (Tender Response Forms) of the RFT.**

1. The Tenderer should provide, without limitation, the following or equivalent information in the table below to satisfy the Department of its financial viability and commercial viability.

Item	Tenderer Response
Details of its ownership structure	
Australian Business Number for GST purposes	
If registered with the Australian Securities and Investments Commission, any Australian Company Number or Australian Registered Body Number	
If registered under State or Territory legislation, any registered business name or association name	
A full description of the Tenderer's current operations	
The names of all directors and officers of the Tenderer's organisation	
Business profiles and corporate objectives and priorities of its organisation	

2. If the Tenderer is a company it should provide:

Item	Tenderer Response
Full details of the legal and financial relationship between itself and any Related Body Corporate and Key Subcontractors (if any) at Form 1 of the RFT	

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The names of all directors and officers and business profiles and corporate objectives and priorities for each Related Body Corporate	
The details of its ten (10) largest shareholders	
The date and place of incorporation and a copy of its certificate of incorporation	

3. If the Tenderer is part of a group of companies it should provide details of its group structure and any cross guarantees between group companies.

Tenderer response:

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4. If the Tenderer is a partnership it should provide the names and addresses of all partners and a copy of the partnership deed.

Tenderer response:

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5. The Tenderer should disclose any civil or criminal prosecutions within the past five (5) years of the Tenderer, any Related Body Corporate, any partner or any director or officer of the foregoing concerning any of the following, or any allegation of the following:

- (a) failure to pay any taxes, levies, fees, duties, or other similar payments to the Commonwealth of Australia, a State, Territory, or local taxing authority within Australia or to any foreign taxing authority;
- (b) malfeasance, misfeasance, or nonfeasance of any duties imposed by law in Australia or in any foreign jurisdiction; or
- (c) participation in, or acquiescence to, any practices in the dealing with any government in Australia or any foreign jurisdiction that are unlawful under the law of Australia or the foreign jurisdiction concerned, or (if relating to a parent entity or Related Body Corporate or director or officer thereof) under the law of any jurisdiction that such parent entity or related organisation is subject to.

Tenderer response:

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6. The Tenderer should disclose any pending investigation of a similar nature of any of the entities or persons of which such entity or person has actual notice.

Tenderer response:

7. The Tenderer is required to demonstrate that they have the financial viability to provide the Services over the Term of any resultant Agreement. The Tenderer should provide the following (or equivalent information to satisfy the Department of the following):
- (a) annual reports or audited financial statements for its last three (3) years of operation - if the latest audited financial statements are dated in excess of six (6) months ago, the latest management accounts for the Tenderer;
 - (b) descriptions of any recent changes of substance in the Tenderer's financial position that are not reflected in the most recent annual report or financial statement provided pursuant to paragraph (a) above;
 - (c) a summary of any court actions, charges, liens or encumbrances affecting the Tenderer's assets or the ownership of the Tenderer or any directors or partners of the Tenderer (including any such court actions, charges, liens, or incumbencies affecting any parent entity);
 - (d) details of any significant events, matters or circumstances which have arisen since the end of the last financial year which may significantly affect the performance of the Agreement;
 - (e) profit and loss budget forecasts and/or cash flow forecasts for the next three (3) financial years;
 - (f) details of any planned debt or equity capital raisings;
 - (g) a statement confirming the solvency of the Tenderer and each of its related entities, principal share and equity holders and partners;
 - (h) a statement that the Tenderer is not aware of any application to place the Tenderer or any Related Body Corporate, principal share and equity holders or partners in liquidation, administration or the equivalent;
 - (i) where the Tenderer requires the guaranteed full financial support of its parent company, annual reports or audited financial statements for the last three (3) years of operation of the parent company. If the latest audited financial statements are dated in excess of six (6) Months ago, the latest management accounts or unaudited draft financial statements for the parent are acceptable;
 - (j) it is not relevant for the Tenderer to provide financial information for a related entity, if that related entity does not have a cross guarantee with the Tenderer (or can otherwise provide assurance that it will provide financial support to the Tenderer if required);

- (k) any other factors the Tenderer desires to describe to support its demonstration of financial viability; and
- (l) a statement confirming that the Tenderer has the commercial capacity to provide the Services.

Tenderer response:

Insurance Coverage

- 8. The Tenderer should provide details of its insurances, including:
 - (a) Public Liability insurance;
 - (b) Workers Compensation insurance;
 - (c) professional indemnity insurance;
 - (d) product liability insurance; and
 - (e) marine cargo or goods in transit cover.
- 9. This should include:
 - (a) the name of the insurer;
 - (b) the policy number;
 - (c) the expiry date; and
 - (d) the amount of cover provided in the policy.
- 10. If the Tenderer self-insures for any of these risks, this should also be identified and explained.

Tenderer response:

Newly-formed Organisations

- 11. If the Tenderer does not have an established track record of service/supply delivery (for example if the Tenderer has been recently created to represent a consortium or in a new partnership):
 - (a) the Department expects that the Tenderer will provide sufficient information and assurances in the categories above in order to satisfy the Department that the

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Tenderer has access to the necessary resources and will have an appropriate level of financial backing, to perform the Agreement; and

- (b) the Tenderer should provide the information and assurances requested for each entity that the Tenderer will be dependent upon for any financial backing including without limitation:
- (i) full details of each entity's proposed role in, or relevance to, the performance of the Agreement;
 - (ii) a description of any current or past co-operative ventures between the entities supporting the Tenderer; and
 - (iii) a description of each entity's proposed liability, and any limitations on its liability, relating to the performance of the Agreement.

Tenderer response:

Changes to Corporate Structure, Ownership and Support

12. The Tenderer should confirm that it will promptly notify the Department in writing of any change, after lodgement of its Tender, to the basis upon which it will have access to the necessary skills, resources, or corporate or financial backing to perform the Agreement, including in relation to Key Subcontractors.
13. Where such change would alter any of the information or assurances that the Tenderer has given in its response to the RFT, the Tenderer should immediately:
- (a) identify with specificity (including all relevant page, section, clause, schedule, exhibit and other like references to its Tender, and any other Material and information provided to the Department), all such information and assurances; and
 - (b) state in detail the alterations to such information and assurances required by such change.

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
**Form 8: Details of Financial Viability and Commercial Viability
of Key Subcontractors**

FINANCIAL VIABILITY AND COMMERCIAL VIABILITY OF KEY SUBCONTRACTORS

Note to Tenderers: This is not a Condition for Participation.

Details of Key Subcontractors (if any) should also be provided in Form 1 of Attachment F (Tender Response Forms) of the RFT. Tenderers should provide for the following details for each Key Subcontractor included in Form 1. Please refer to the definition of Key Subcontractor in Attachment A (Glossary) of the RFT.

Demonstration of Key Subcontractor/s' financial viability and commercial viability will be considered as part of the overall risk assessment of the Tenderer.

1. The Tenderer should provide the following or equivalent information to demonstrate Key Subcontractor/s' financial viability and commercial viability:

Item	Tenderer Response
Details of its ownership structure	
Australian Business Number for GST purposes	
If registered with the Australian Securities and Investments Commission, any Australian Company Number or Australian Registered Body Number	
If registered under State or Territory legislation, any registered business name or association name	
A full description of the Key Subcontractor's current operations	
The names of all directors and officers of the Key Subcontractor's organisation	
Business profiles and corporate objectives and priorities of its organisation	

2. The Tenderer, with regard to the Key Subcontractor/s is required to demonstrate that they have the financial viability to provide the Services over the Contract Period. The Tenderer should provide the following (or equivalent information to satisfy the Department of the following) for each Key Subcontractor:
 - (a) annual reports or audited financial statements for its last three (3) years of operation - if the last audited financial statements are dated in excess of six (6) months ago, the latest management accounts for the Key Subcontractor;

RFT 11/16 - Attachment F - Tender Response Forms - Version 2

- (b) descriptions of any recent changes of substance in the Key Subcontractors' financial position that are not reflected in the most recent annual report or financial statement provided pursuant to paragraph (a) above;
- (c) a summary of any court actions, charges, liens or encumbrances affecting the Key Subcontractor's assets or the ownership of the Key Subcontractor or any directors or partners of the Key Subcontractor (including any such court actions, charges, liens, or incumbencies affecting any parent entity);
- (d) details of any significant events, matters or circumstances which have arisen since the end of the last financial year which may significantly affect the Tenderer's performance of the Contract;
- (e) details of insurance cover held and/or proposed in respect of the Contract. Such details should include, but need not be limited to:
 - (i) types of insurance coverage held;
 - (ii) details of any blanket policy held; and
 - (iii) amount of cover provided in policy;
- (f) profit and loss budget forecasts and/or cash flow forecasts for the next three (3) financial years;
- (g) details of any planned debt or equity capital raisings;
- (h) a statement confirming the solvency of the Key Subcontractor and each of its related entities, principal share and equity holders and partners;
- (i) a statement that the Key Subcontractor is not aware of any application to place the Key Subcontractor/s or any Related Body Corporate, principal share and equity holders or partners in liquidation, administration or the equivalent;
- (j) where the Key Subcontractor/s requires the guaranteed full financial support of its parent company/related entity, annual reports or audited financial statements for the last three years of operation of the parent company/related entity. If the latest audited financial statements are dated in excess of six (6) Months ago, the latest management accounts or unaudited draft financial statements for the parent are acceptable;
- (k) it is not relevant to provide financial information for a Key Subcontractors' related entity, if that related entity does not have a cross guarantee with the Key Subcontractor/s (or can otherwise provide assurance that it will provide financial support to the Key Subcontractor/s if required);
- (l) any other factors the Key Subcontractor/s desires to describe to support its demonstration of financial viability; and
- (m) a statement confirming that the Key Subcontractor/s has the commercial capacity to provide the Services (where this is applicable).

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 9: Statement of Non-Compliance

STATEMENT OF NON-COMPLIANCE

1. Statement of Non-Compliance

1.1 Subject to **paragraph 1.6** of this **Form 9** (Statement of Non-Compliance) of **Attachment F** (Tender Response Forms), in a table based on the table below, the Tenderer should list each clause/paragraph of the:

- (a) **Request for Tender;**
- (b) **Attachment A** (Glossary);
- (c) **Attachment B** (Statement of Requirement);
- (d) **Attachment C** (Service Levels); and
- (e) **Attachment D** (Draft Contract), and the legal Schedules attached to that Contract, including:
 - (i) Schedule 3 - Security Requirements;
 - (ii) Schedule 4 - Transition Management;
 - (iii) Schedule 6 – Service Levels and Service Credits;
 - (iv) Schedule 9 - HR Management;
 - (v) Schedule 12 - Audit Access;
 - (vi) Schedule 13 - Applicable Requirements;
 - (vii) Schedule 14 - Performance Guarantee; and
 - (viii) Schedule 17 - Confidentiality Undertaking;

for which the Tenderer is not fully compliant:

- (a) whether they are partially compliant or do not comply (for each clause/paragraph);
- (b) the reason for partial compliance or non-compliance and alternative clauses/paragraphs the Tenderer proposes; and
- (c) any increase to tendered prices if the Department does not agree to the Tenderer's proposed amendment(s).

Clause/Para	Tick ("✓") one of the following:		If "Partially Complies" or "Does Not Comply" is ticked:	
	Partially Complies	Does Not Comply	– Reasons for Partial Compliance or Non-Compliance; and – Suggested alternative wording	Any increase to Prices if DIBP does not agree to Tenderer's proposed amendment

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1.2 The expressions used have the following meaning:

(a) **"complies"** means:

- (i) in the case of a clause/paragraph which specifies a characteristic or performance to be met by the Tenderer, that the Tenderer can (and will) meet the requirement as specified;
- (ii) in the case of a clause/paragraph which is of an informative nature only, the clause/paragraph has been read, understood and is agreed; or
- (iii) in the case of a clause/paragraph where information has been requested, that the information has been provided in the required level of detail and in the required format;

(b) **"does not comply"** means that the characteristic or performance requirement of the clause/paragraph cannot be met by the Tenderer; and

(c) **"partially complies"** means that the characteristic or performance requirement by the clause/paragraph can be substantially met by the Tenderer, subject to certain specified qualifications.

1.3 Where the Tenderer only partially complies or does not comply, the Tenderer should:

- (a) explain its reasons and in the case of **Attachment B** (Statement of Requirement) and **Attachment D** (Draft Contract) and **Schedule 5** (Applicable Requirements), provide suggested alternative wording; and
- (b) provide details of any increase in its Tender Prices if the Department does not agree to the amendment.

1.4 The Tenderer may choose to say that it complies with all or a group of clauses/paragraphs and separately identify the clauses/paragraphs with which it partially complies/does not comply.

1.5 The Department will consider any non-compliances or partial compliances in its evaluation of risks.

1.6 If Tenderers do not submit a response to this Form 9 they will be evaluated on the basis that they agree with all the provisions of the **Request for Tender**, including **Attachment B** (Statement of Requirement) and **Attachment D** (Draft Contract) and **Schedule 5** (Applicable Requirements).

1.7 The Department does not intend to permit a Tenderer to re-open any provision of the Draft Contract in negotiations that was not identified as an area of non-compliance or partial compliance in a Tender.

2. **Direct Competitor**

2.1 The Tenderer should provide details of those organisations that the Tenderer, for the purposes of clause 34.1.5 of the **Terms and Conditions**, considers being a Direct Competitor, including a brief description as to why the organisation is a Direct Competitor.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 10: Procurement Connected Policies

A. INDIGENOUS PROCUREMENT POLICY

Indigenous Procurement Policy

1. The Tenderer should provide detail on how it will increase its:
 - (a) purchasing from Indigenous enterprises (being an organisation that is 50 per cent or more Indigenous owned that is operating a business); and
 - (b) employment of Indigenous Australians,in the delivery of any resultant Contract.
2. Purchases from an Indigenous enterprise may be in the form of an engagement of an Indigenous enterprise as a subcontractor, and/or use of Indigenous suppliers in the Tenderer's supply chain.

Note to Tenderers: Supply Nation maintains a list of enterprises that meet the definition of "Indigenous enterprises" (see www.supplynation.org.au). If an enterprise is not listed with Supply Nation refer to section 1.8.1 of the Indigenous Procurement Policy for ways of ensuring an enterprise is an Indigenous enterprise.

3. Tenderers should consult the Indigenous Procurement Policy provided by the Department of Prime Minister and Cabinet available at:
https://www.dpmc.gov.au/sites/default/files/publications/indigenous_procurement_policy.pdf

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 11: Draft Risk Management Plan

DRAFT RISK MANAGEMENT PLAN

The Tenderer should provide a draft Risk Management Plan that addresses risks in relation to its provision of the Services and describes how the Tenderer proposes to address, manage and mitigate those risks. The Risk Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to executing an Agreement (if any).

1. The Tenderer's draft Risk Management Plan should also describe the Tenderer's Work Health and Safety (**WHS**) risk management, including the structure, means, resources (including management of persons/positions responsible) and timeframes.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 12: Implementation Plans

DRAFT TRANSITION PLANS

The Tenderer should provide the following draft Implementation Plans:

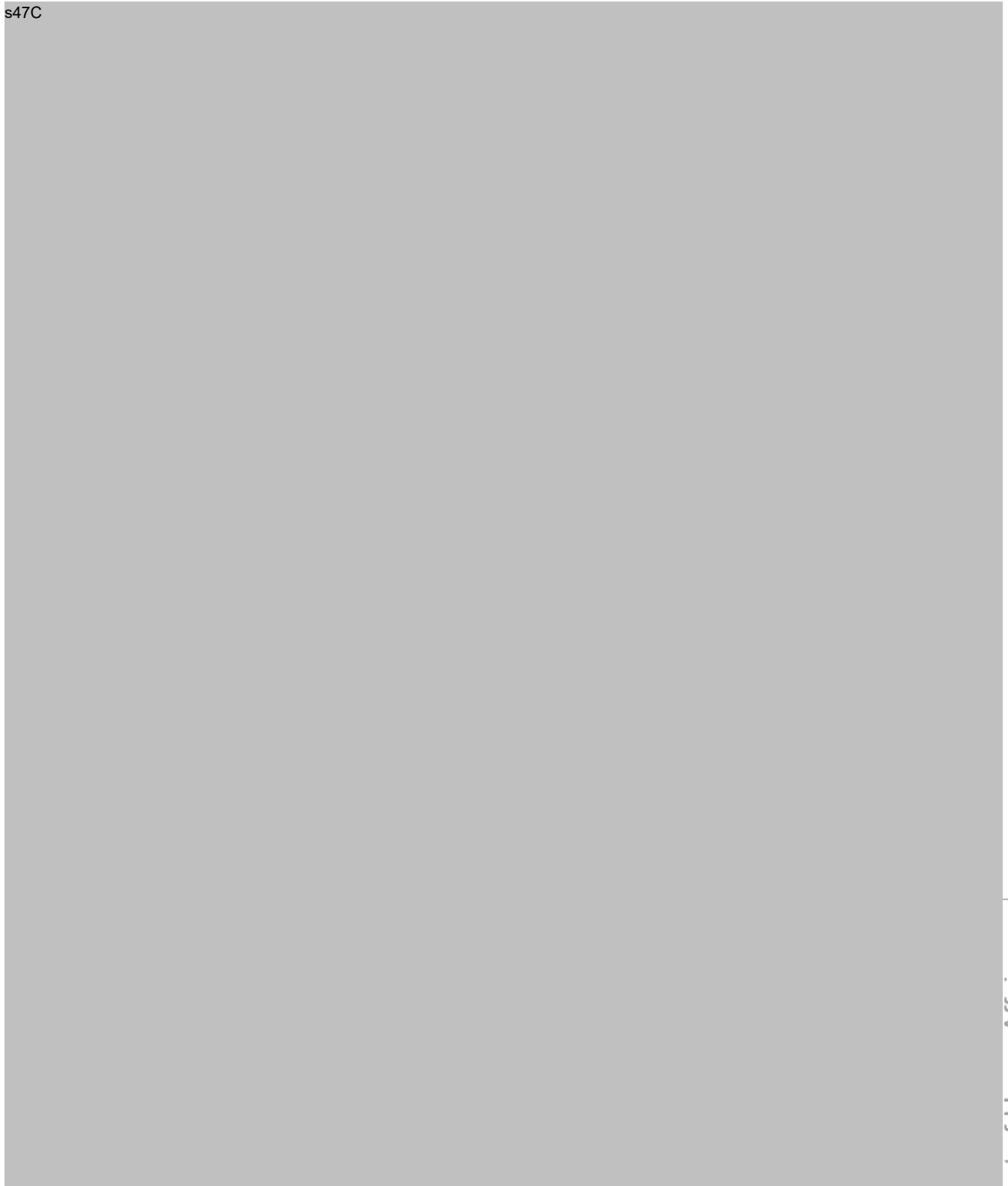
- (a) Transition In Plan;
- (b) s47C
- (c) Transition Out Plan;

Transition In Plan

1. The draft Transition In Plan should provide for competent, orderly and prudent transition of all Services in full from the Go Live Date. Tenderers should describe how the draft Transition In Plan addresses risks that are inherent to the introduction of a new Supplier's Solution. It is expected that the Supplier will work with the Department to finalise a Transition In Plan prior to the executing of an Agreement (if any) to smoothly transition the Services and closely monitor to minimise risks from this process.
2. The Tenderer should provide a draft Transition In Plan which sets out:
 - (a) an overview of the Transition
 - (b) the Tenderer's overall methodology and approach to complete the Transition
 - (c) the Transition objectives
 - (d) the Transition Dependencies
 - (e) the Transition Assumptions;
 - (f) governance structure for the Transition Period;
 - (g) the allocation of responsibilities between each of the Parties during the Transition Period;
 - (h) training of Supplier Personnel to provide the Services;
 - (i) how the Supplier will ensure Supplier Facilities achieve all necessary security accreditations in accordance with the Transition timeframes.
3. The draft Transition In Plan should also contain the following:
 - (a) the methodology for introducing the Supplier's Solution;
 - (b) a Transition Project Schedule;
 - (c) Transition resourcing, including allocation of Specified Personnel;
 - (d) a Transition Risk Register; and
 - (e) a Transition Acceptance Test Plan.

Tenderer response:

s47C

**Transition Out Plan**

The draft Transition Out Plan should provide for the competent, orderly and prudent transition of all Services in full to a Successor Supplier (if any). Tenderers should describe how the draft Transition Out Plan addresses risks that are inherent to the introduction of a Successor Supplier. It is expected that the Supplier will work with the Department to finalise an Transition Out Plan prior to the executing of an Agreement (if any).

7. The Tenderer should provide a draft Transition Out Plan which sets out:
- (a) governance structure for the Transition Period;
 - (b) the assistance the Supplier will provide to the Department to undertake a procurement process;
 - (c) the steps the Supplier will take to ensure business continuity; and
 - (d) the allocation of responsibilities between each of the Parties during the Transition Period.
8. The draft Transition Out Plan should also contain details the following:
- (a) Transition Project Schedule;
 - (b) Transition resourcing, including allocation of Specified Personnel;
 - (c) Transition Risk Register; and
 - (d) Transition Acceptance Test Plan.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 13: Quality Management Plan

DRAFT QUALITY MANAGEMENT PLAN

The Tenderer should provide a draft Quality Management Plan. The draft Quality Management Plan should detail how the Tenderer plans to maintain quality in respect of all aspects of the Services.

The Quality Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 14: Security Risk Management Plan

DRAFT SECURITY RISK MANAGEMENT PLAN

The Tenderer should provide a draft Security Risk Management Plan. The Security Risk Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

1. The draft Security Risk Management Plan should describe:
 - (a) a System Security Plan;
 - (b) supply chain management for Hardware and Software to be supplied as part of the Services;
- 1.1 In preparing the Security Risk Management Plan, the Tenderer should have reference to, and describe how its procedures comply with, the following:
 - (a) the Protective Security Policy Framework available at <https://www.protectivesecurity.gov.au/overarching-guidance/Pages/Mandatory-requirements.aspx>; and
 - (b) the Information Security Manual produced by the Australian Signals Directorate available at <http://www.asd.gov.au/infosec/ism/>.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 15: Enquiry Handling Operations Plan

DRAFT ENQUIRY HANDLING OPERATIONS PLAN

The Tenderer should submit a draft Enquiry Handling Operations Plan. The draft Enquiry Handling Operations Plan should be substantially in the same form as the Department supplied Enquiry Handling Operations Plan template. The Enquiry Handling Operation Plan will be finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 16: Business Continuity Plan

BUSINESS CONTINUITY PLAN

The Tenderer should provide a draft Business Continuity Plan. The Business Continuity Plan of a successful Tenderer (if any) will be developed and finalised in consultation with DIBP prior to the executing of an Agreement (if any).

The draft Business Continuity Plan should describe how the Tenderer will ensure that the Services can be provided in the event of any unexpected or Unforeseen Event.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 17: Project Management Plan

PROJECT MANAGEMENT PLAN

The Tenderer should provide a draft Project Management Plan. The Project Management Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 18: Training Plan

TRAINING PLAN

The Tenderer should provide a draft Training Plan. The Training Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Note to Tenderers: The draft Training Plan should not exceed 500 words (one (1) A4 page).

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 19: IT Operations Plan

IT OPERATIONS PLAN

The Tenderer should provide a draft IT Operations Plan. The IT Operations Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

The Tenderer should:

- (a) define required Client workflow including required service calls;
- (b) determine any differences required between existing services and those needed to support the workflow;
- (c) describe how it will design and build/enhance any required web services changes on both the Supplier Service Solution side and the Department system side. This may include new data storage and associated changes on the Department system side; and
- (d) testing and Transition.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 20: Resource Plan

RESOURCE PLAN

The Tenderer should provide a draft Resource Plan. The Resource Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

The Tenderer should:

- (a) identify all Specified Personnel and their availability over the Term of any resultant Agreement on an FTE basis;
- (b) describe its recruitment strategy;
- (c) describe its staff retention strategy; and
- (d) if there are Key Subcontractors, identify the material in paragraphs (a) and (c) above for the Key Subcontractor.

Tenderer response:

RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 21: Stakeholder Engagement Plan

STAKEHOLDER ENGAGEMENT PLAN

The Tenderer should provide a draft Stakeholder Engagement Plan. The Stakeholder Engagement Plan of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 22: Procedures Manual

PROCEDURES MANUAL

The Tenderer should provide a draft Procedures Manual. The Procedures Manual of a successful Tenderer (if any) will be developed and finalised in consultation with the Department prior to the executing of an Agreement (if any).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 23: Intellectual Property Register

INTELLECTUAL PROPERTY REGISTER

The Tenderer should provide information on the details of any Intellectual Property Rights relevant to the Services (refer to clause 28 of the Terms and Conditions), including:

- (a) the nature of the Intellectual Property Rights;
- (b) the owner of the Intellectual Property Rights; and
- (c) terms and conditions of any licence of Third Party Intellectual Property Rights.

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 24: Sources of Assistance

SOURCES OF ASSISTANCE

To ensure the Tenderer has not received any improper assistance the Tenderer should list all individuals and organisations who have informed the preparation of its Tender (refer **clause 30** of the RFT).

Tenderer response:

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RFT 11/16 - Attachment F - Tender Response Forms - Version 2
Form 25: RFT Question Form

All enquiries to the Department in connection with this RFT should be made using this form and lodged in the manner described at **clause 5** of this RFT.

Required Question Submission Information (to be completed by Tenderer)		
1	Date:	
2	Tenderer Name: (in full)	
3	RFT Part: (including reference to any relevant Schedule, Attachment, Appendix, Exhibit)	
4	RFT Page Number: (if applicable)	
5	Tenderer Question Form Sequence Number: (expressed as a three digit number, e.g. 001)	

Tenderer's Question



Australian Government
Department of Immigration
and Border Protection

Client Enquiry Services Request for Tender (RFT)

Industry briefing

20 June 2017

Overview

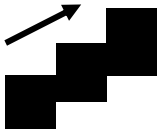
- Welcome
- Thank you for REOI submission
- Recordings
- Presenters
- Questions and answers
- Q&A available on AusTender



Strategic context



As part of the Budget, the Government announced significant reform to Australia's visa and citizenship services



This reform will be a multi-year, staged programme



This tender is informed from the REOI and subsequent analysis

RFT primary goal

By June 30 2018, client enquiry services currently managed by our service centres in Sydney, London and Ottawa, will be outsourced to an external service provider operating from an onshore location...

Current State



Future State



RFT primary goal

...and this needs to be done as cost effectively as possible, without compromising service levels.



Cost effectively as
possible



without compromising
service levels

Strategic objectives



Improve Client Service Levels to meet industry standards

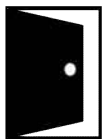


Channel shift clients from high-cost in-person channels to lower-cost self-serve digital channels

s47C



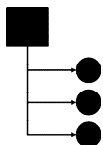
Business requirements - highlights



Act as the front door for client enquiries



Act as the first point of resolution for client enquiries

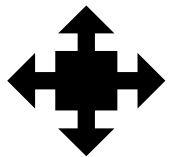


Escalate enquiries to the Department under agreed circumstances only (as per the Escalation Matrix)

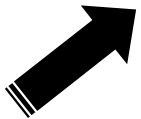


Provide information only to a client and not advice

Business requirements - highlights



Have a flexible approach to quickly respond to departmental and legislative change



Ability to take on additional client enquiries in the future

- Approx 1.2 million enquiries offshore
- Approx 800,000 enquiries onshore



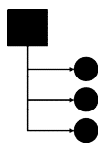
Access to DIBP Line of Business Systems

Business requirements - enquiry tiering

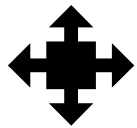
Tier 0	Defined as self-service for the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. Includes accessing various online service applications available after following prescribed log-in processes.
Tier 1	An assisted enquiry that could have been answered by the client using publically available information, such as information about a visa, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.
Tier 2	An assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.
Tier 3	A final point of resolution, an enquiry that requires a departmental subject matter expert to answer the enquiry.

Business requirements - escalations

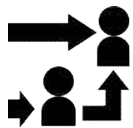
Be the first point of resolution for client enquiries



Resolve enquiries in accordance with the approved Escalation Matrix



Escalations may be due to complexity, area of specialisation, urgency or sensitivity level



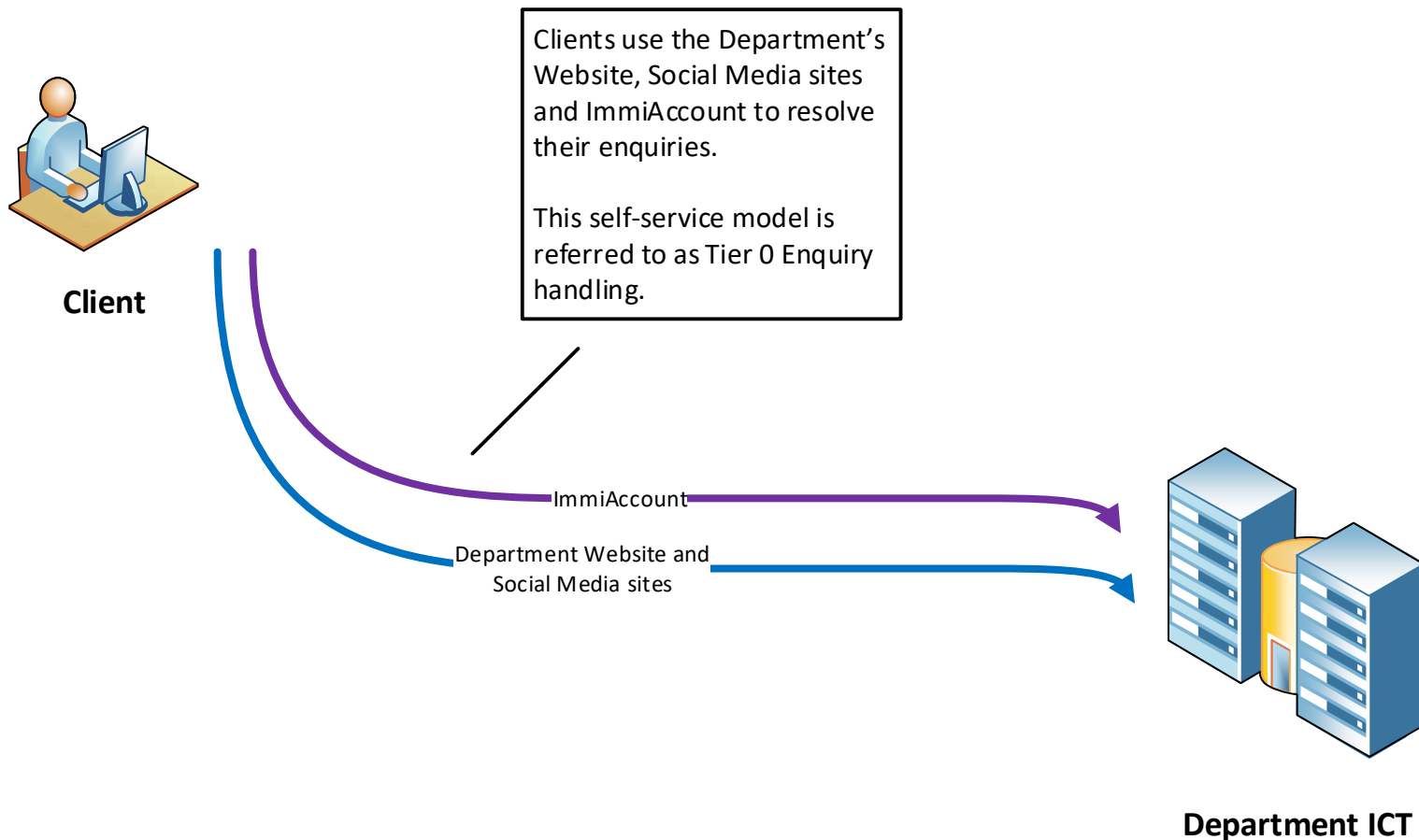
Routing rules will determine which enquiries are to be automatically transferred to the Department and which are to be triaged by the Service Provider



Co-design activities will help to determine the routing rules

Interaction Model walkthrough

Interaction Model walkthrough



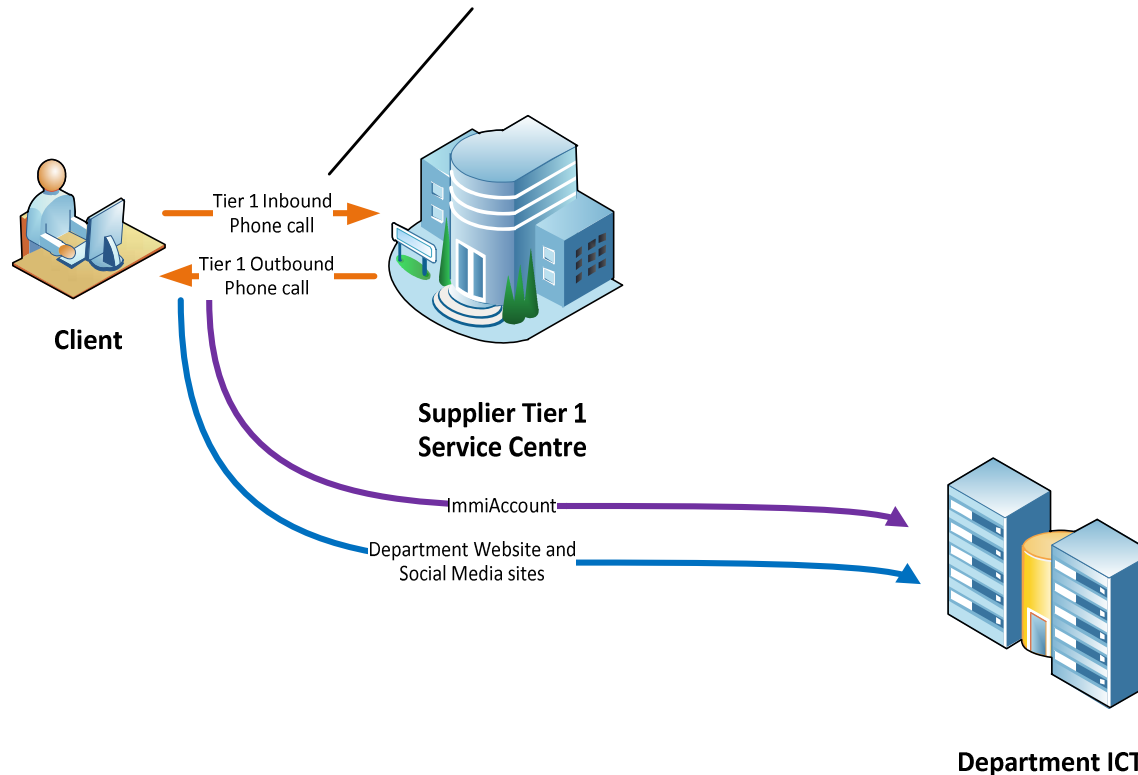
Interaction Model walkthrough

Clients who cannot resolve their own Enquiry can call the Supplier's Service Centre.

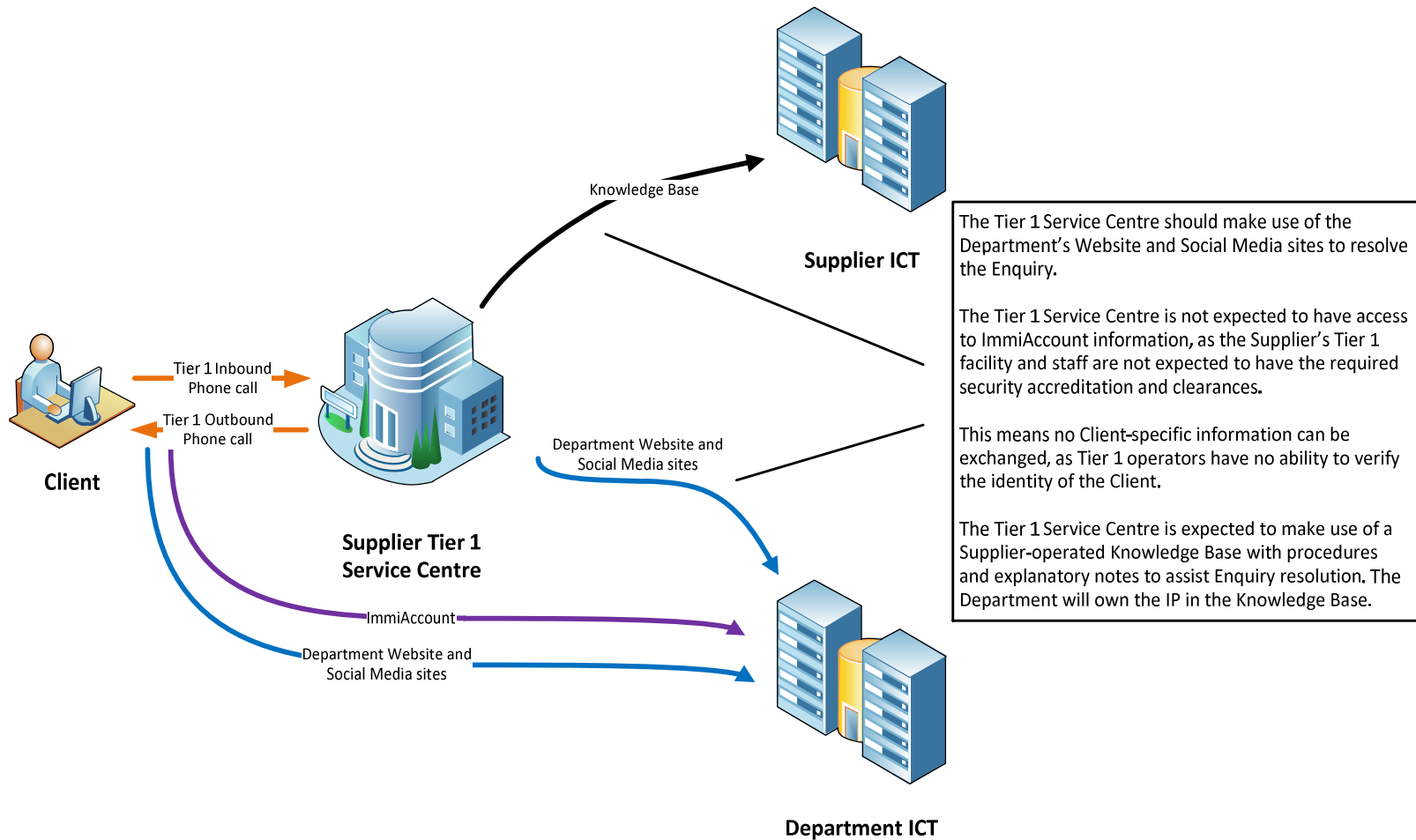
The Supplier may operate an IVR to triage calls entering the Service Centres. For the purposes of this diagram it is assumed the phone call is accepted by the Tier 1 Service Centre.

The Service Centre may call the Client in some circumstances, such as virtual hold call backs.

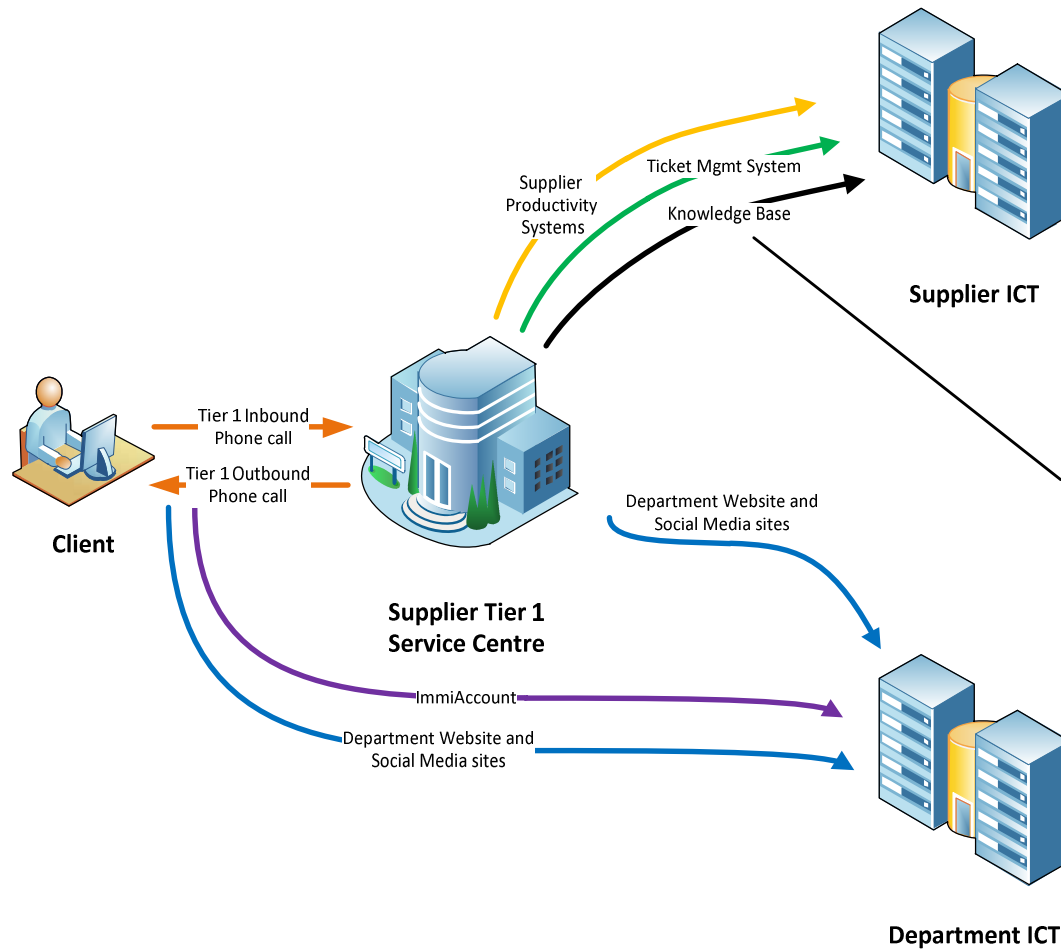
Only one Tier 1 Service Centre is shown here, although there may be more than one.



Interaction Model walkthrough



Interaction Model walkthrough

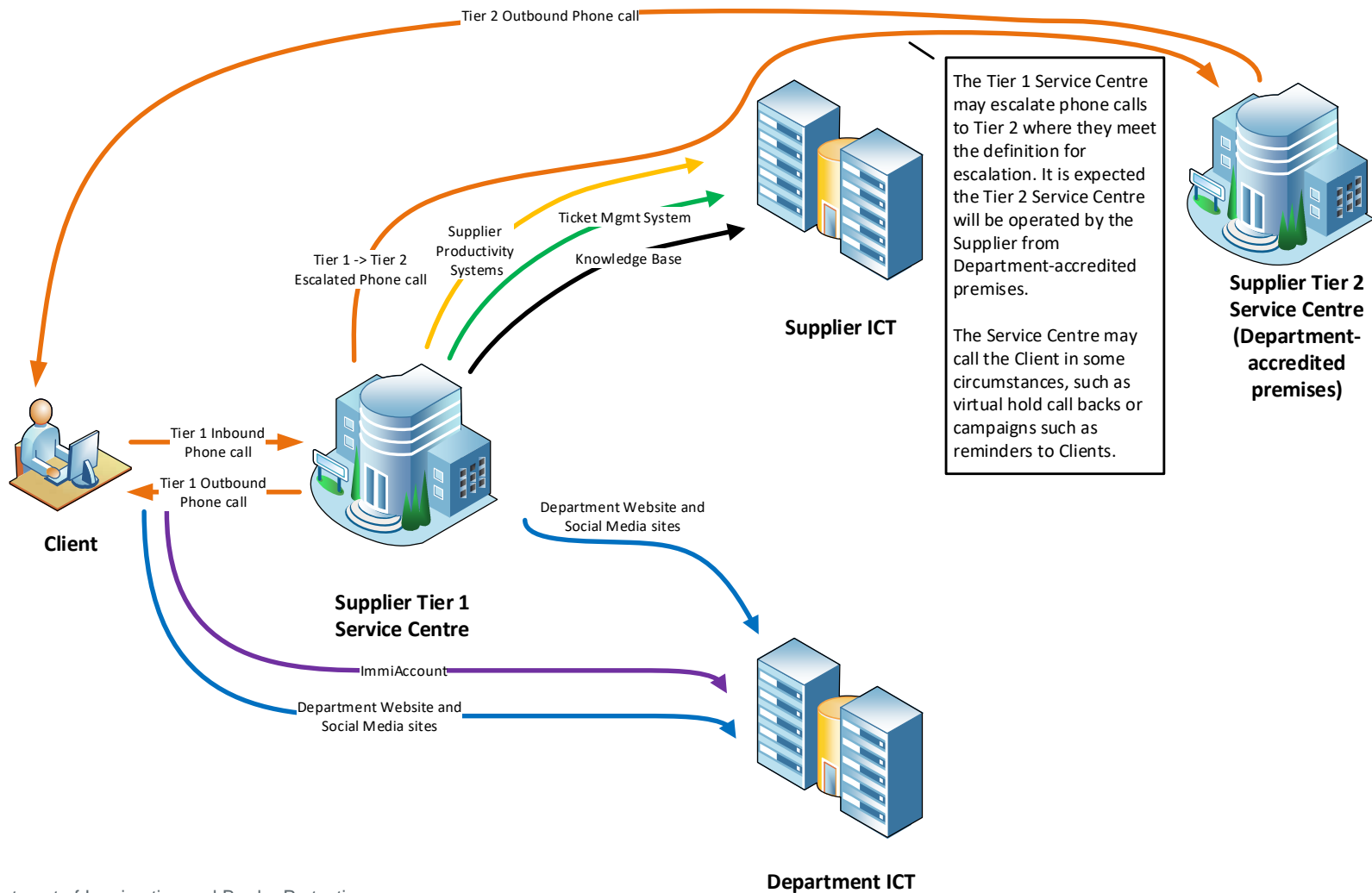


It is assumed the Tier 1 Service Centre will make use of Supplier-operated Supplier Productivity and Ticket Mgmt Systems.

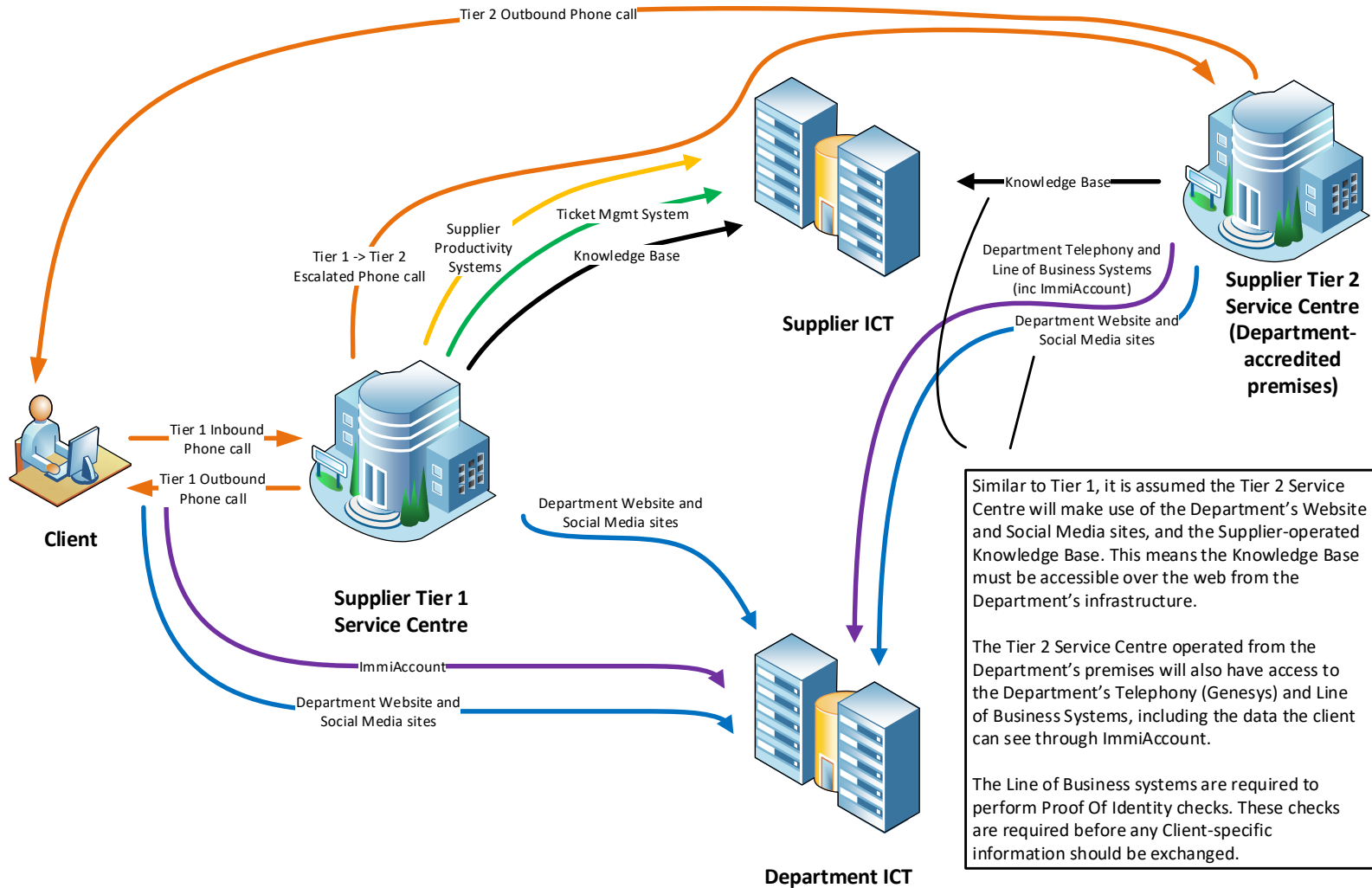
It is expected Supplier Productivity Systems will be required for scheduling staff and coordinating operators to answer phone calls.

It is expected a Ticket Mgmt System will be used to enter details of each Enquiry. Note that for Tier 1 Enquiries, the operators will not have access to the Department's systems to conduct strong Proof Of Identity checks.

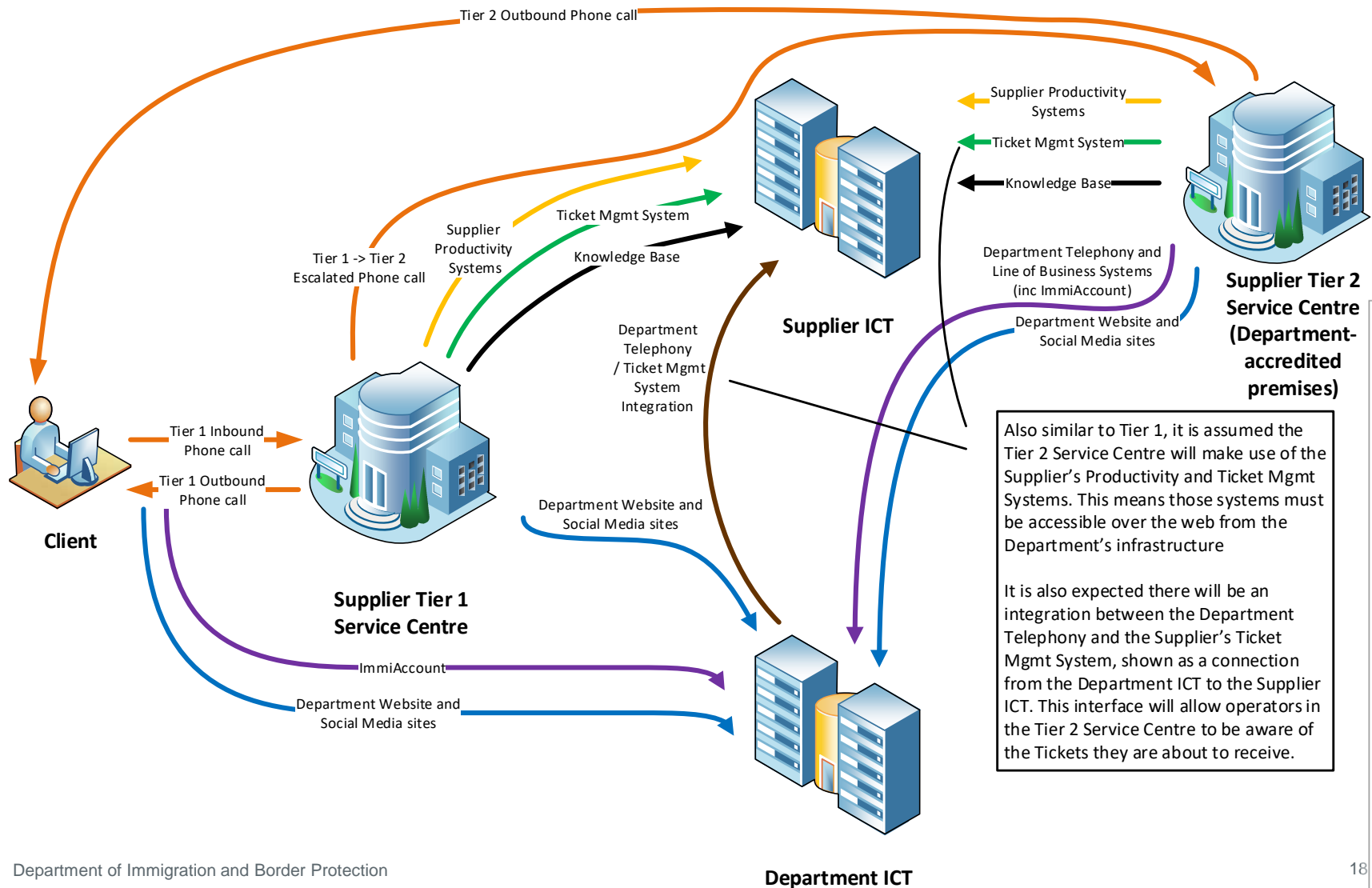
Interaction Model walkthrough



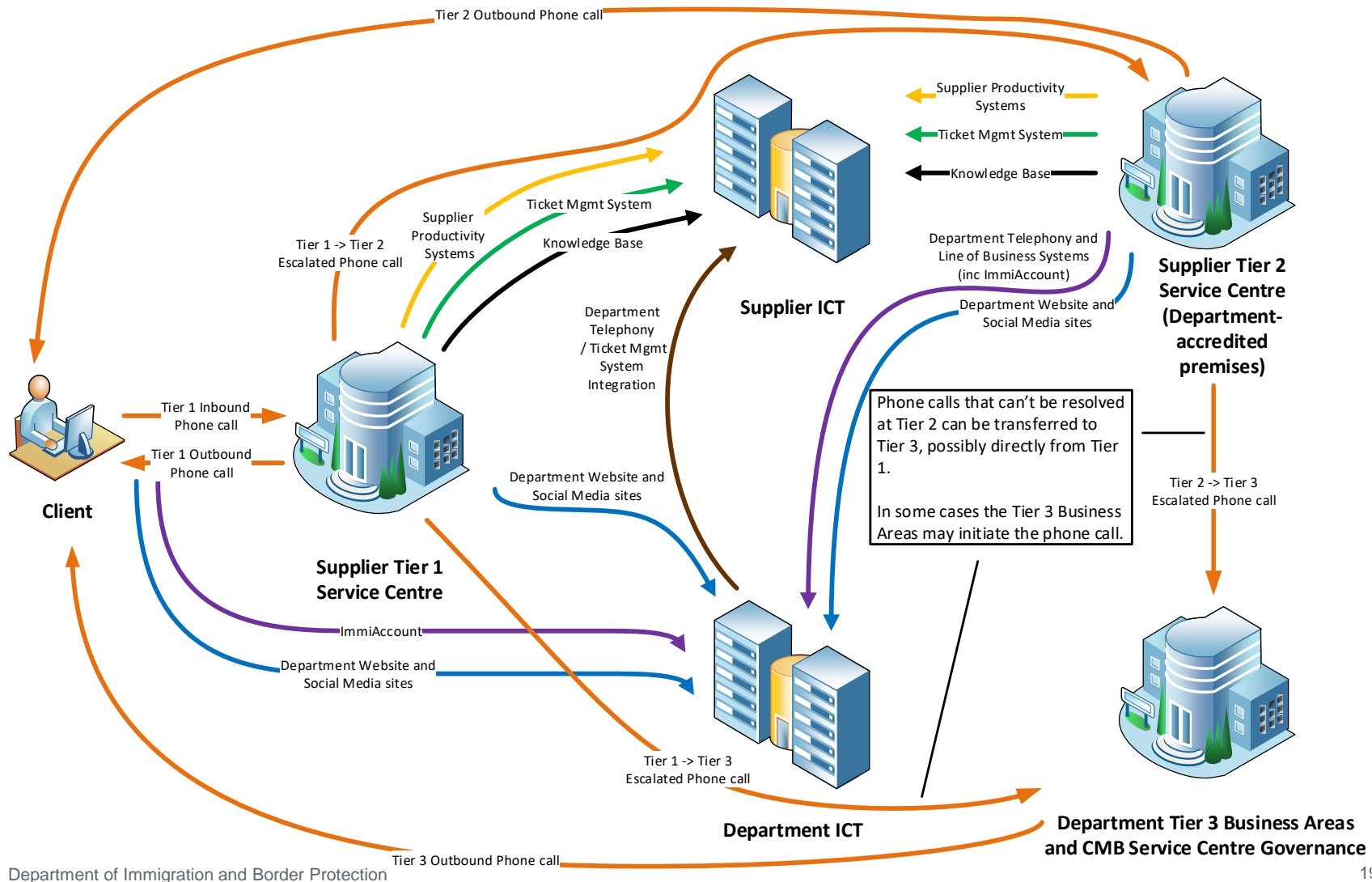
Interaction Model walkthrough



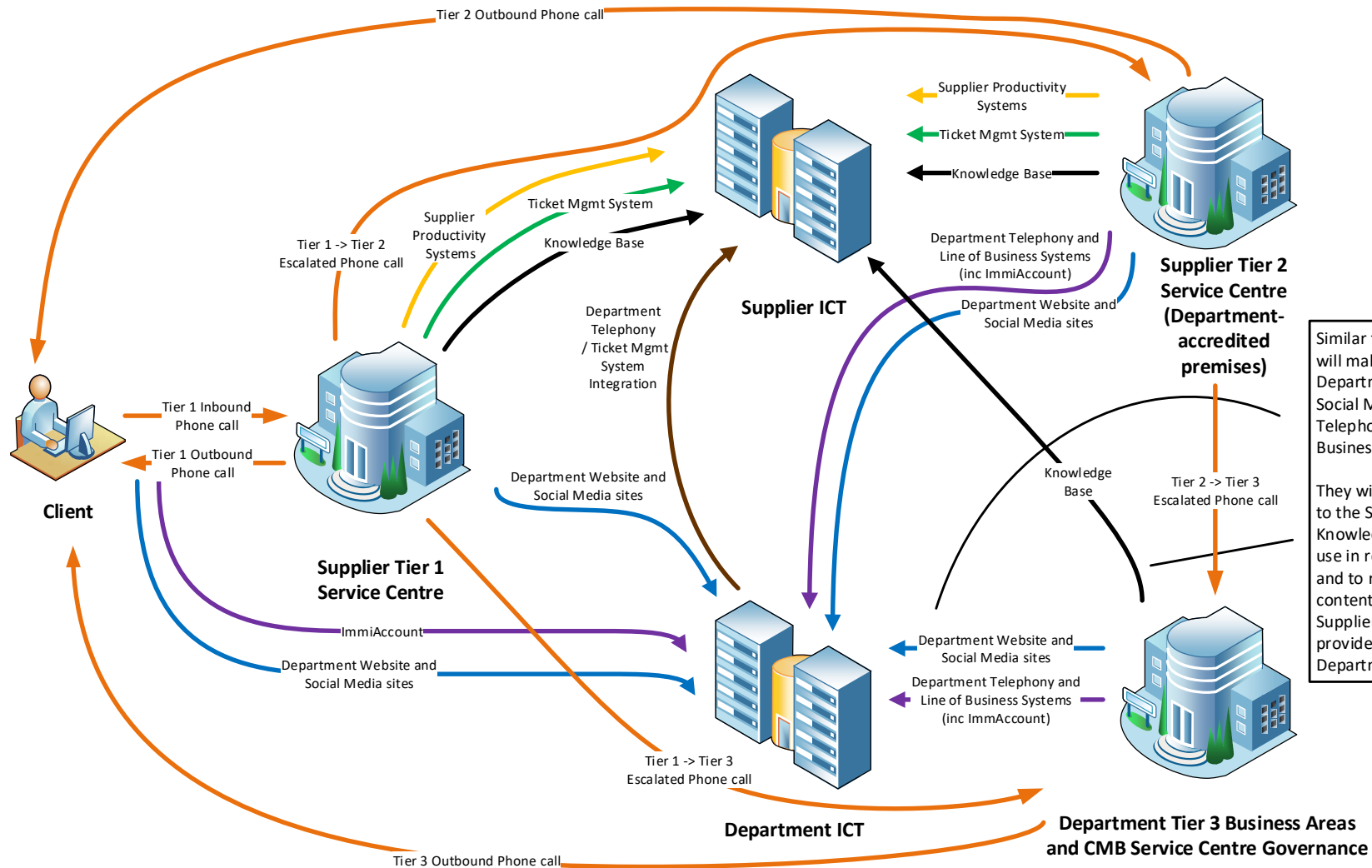
Interaction Model walkthrough



Interaction Model walkthrough



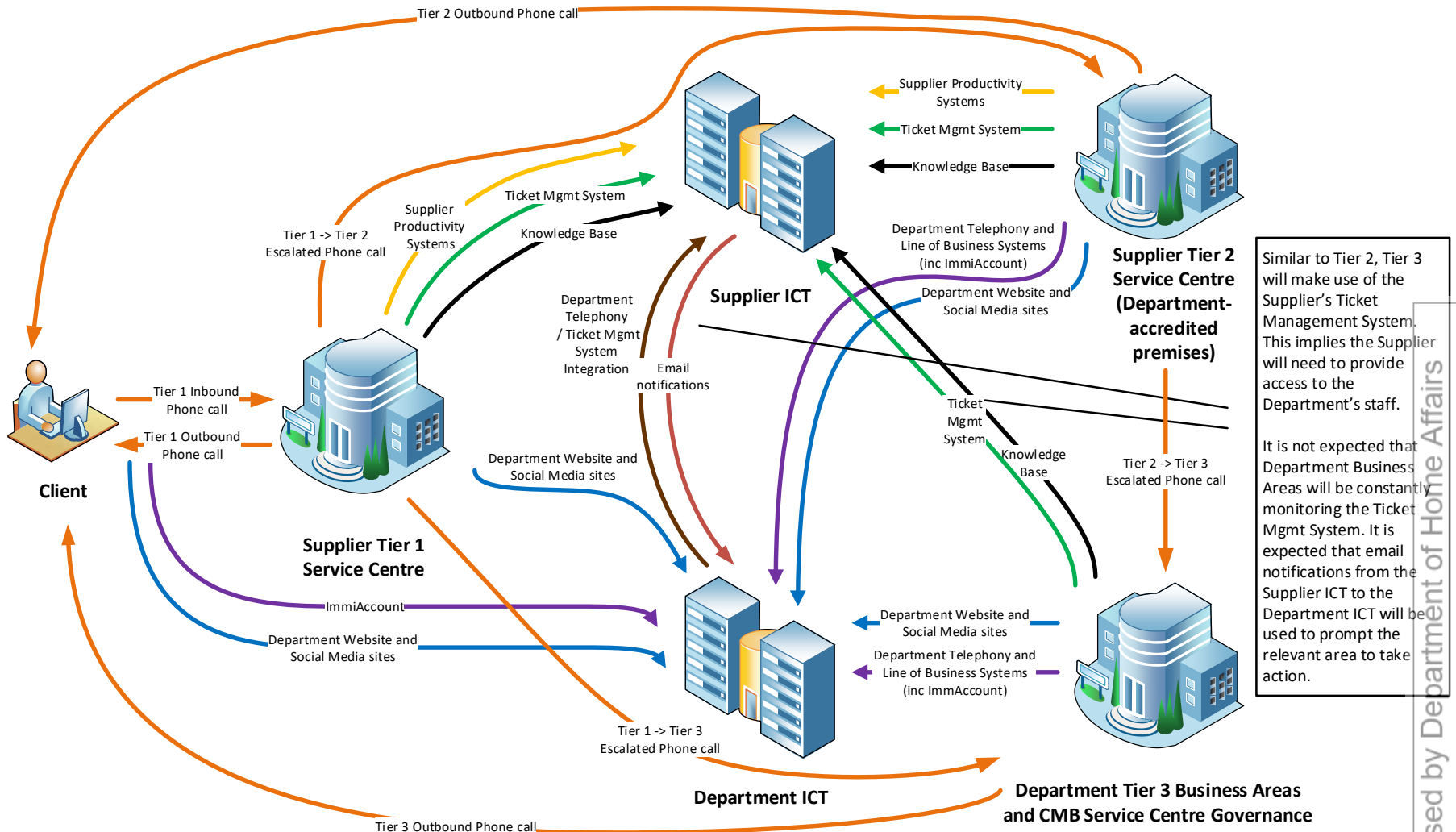
Interaction Model walkthrough



Similar to Tier 2, Tier 3 will make use of the Department's Website, Social Media sites, Telephony and Line of Business Systems.

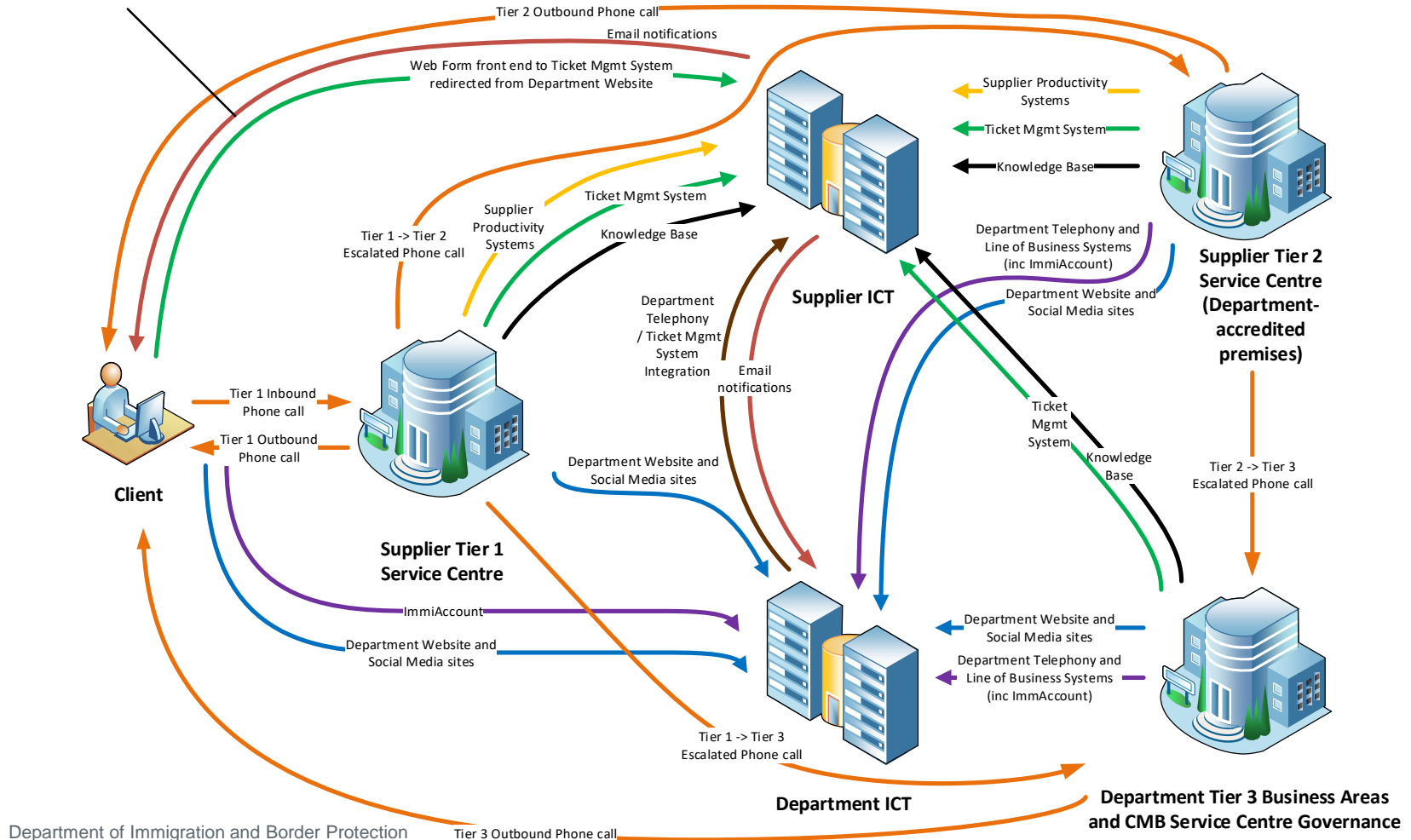
They will also need access to the Supplier's Knowledge Base, both for use in resolving Enquiries and to review the content. This implies the Supplier will need to provide access to the Department's staff.

Interaction Model walkthrough



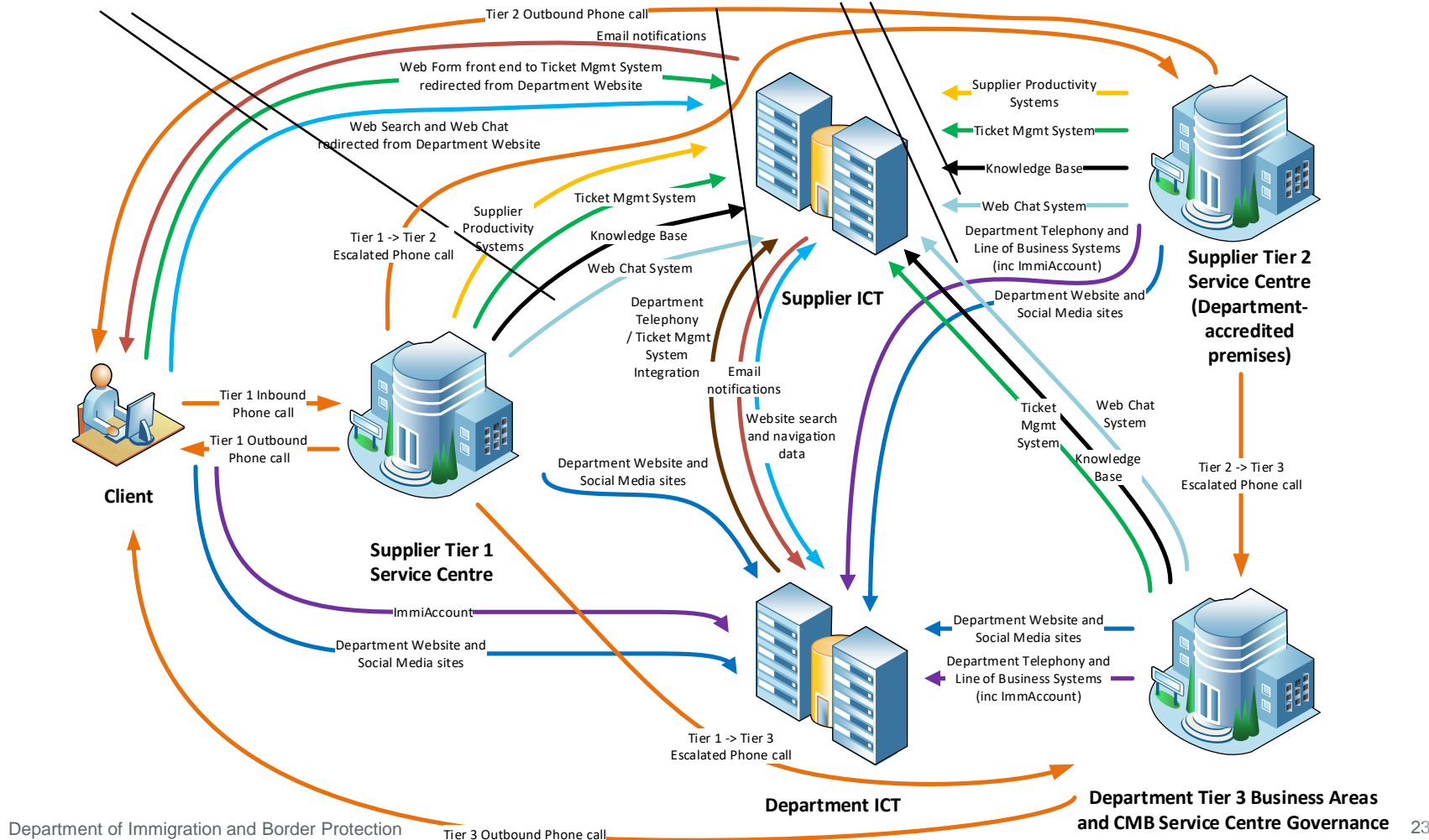
Interaction Model walkthrough

Clients may also lodge Enquiries through a Web Form redirected from the Department Website. The various Tiers handle the Enquiry through the Ticket Mgmt System, as per the Phone call scenario. It is expected Clients will be asked to access all responses through the Web Form system. Email could be used to notify clients there is a response ready for their review, and possible action.

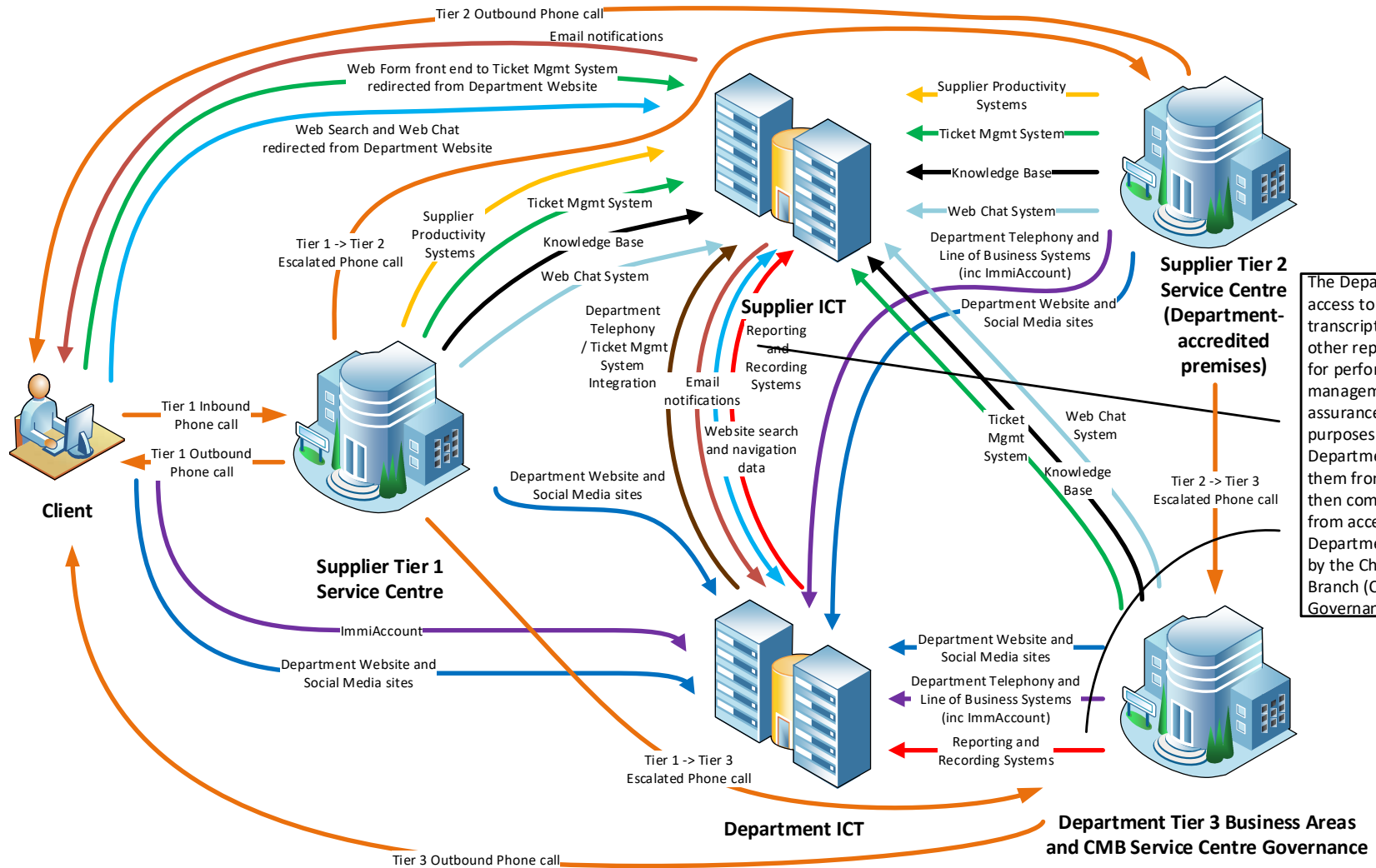


Interaction Model walkthrough

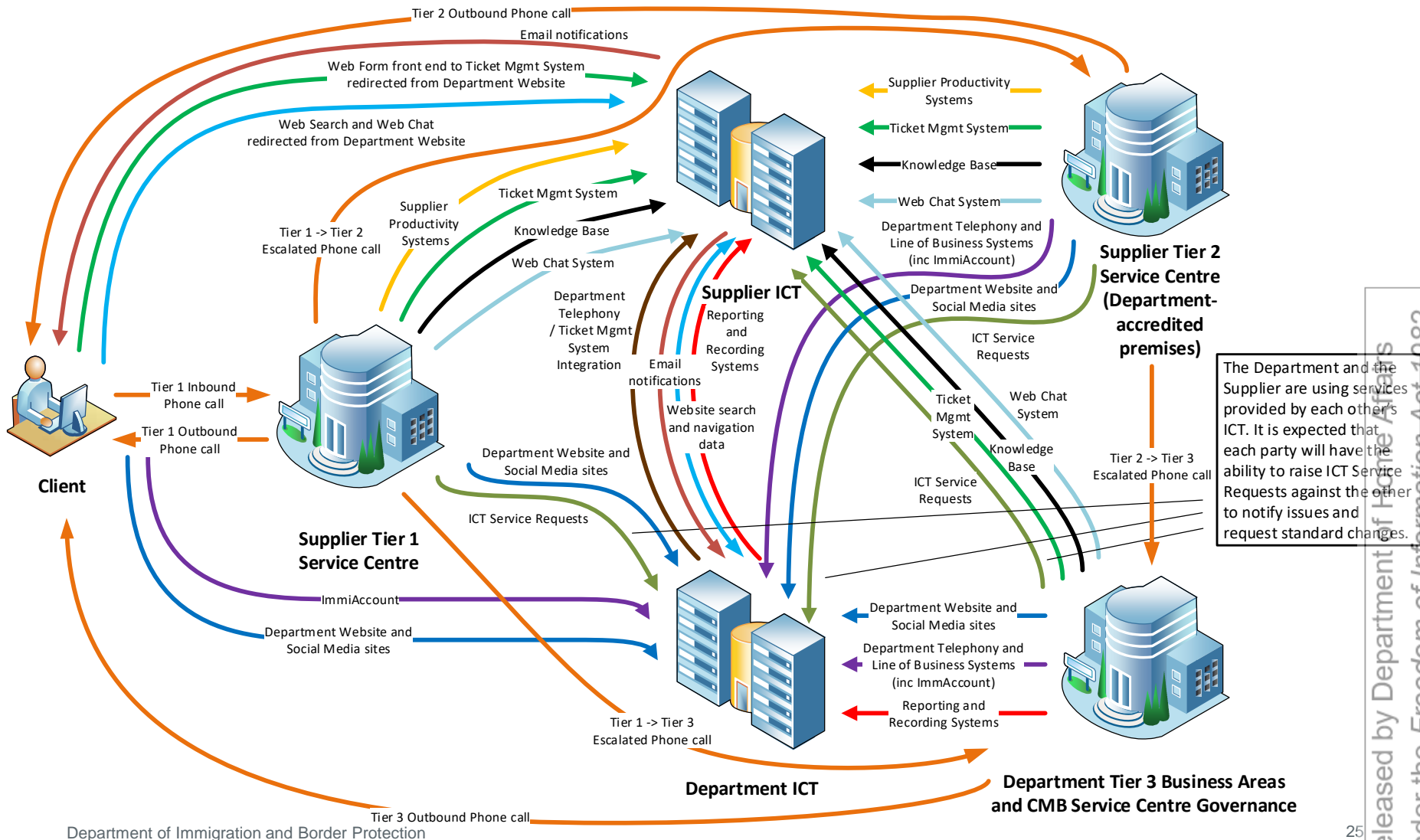
Clients may also lodge Enquiries through a Web Chat redirected from the Department Website. The various Tiers handle the Enquiry through the Ticket Mgmt System, as per the Phone call scenario. The Supplier is also expected to offer the Web Search facility from the Department's Website, providing capabilities such as natural language queries in multiple languages and results that are prioritised using trends from Enquiries handled in the Service Centre. The Department can also use the service to dynamically build website pages for Clients based on their browsing history and other intelligence from the Supplier on how to best help Client's self serve to resolve Enquiries.



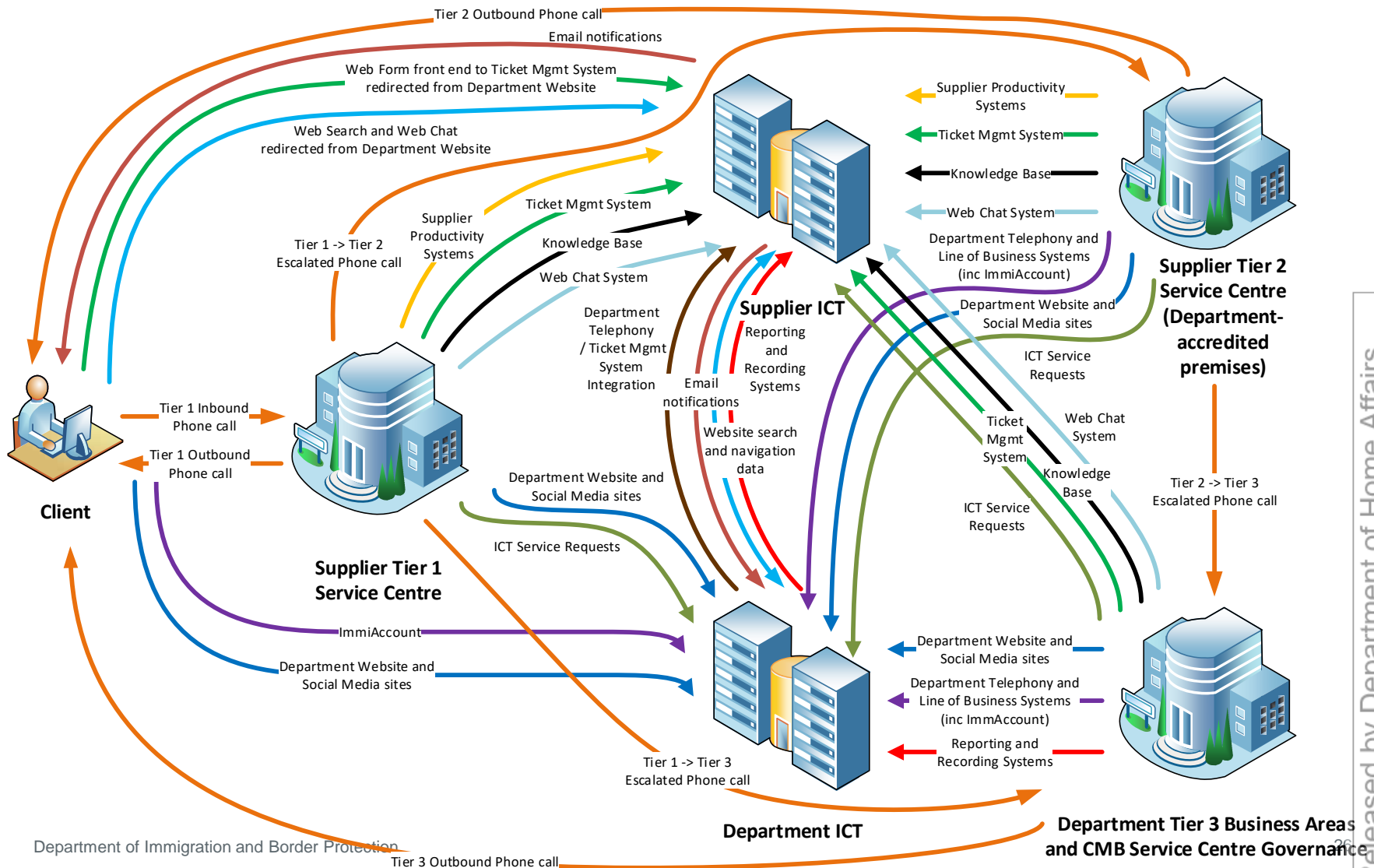
Interaction Model walkthrough



Interaction Model walkthrough



Complete Interaction Model



Channels & Access Points

Channel	Access Point	Current State	Future State
Digital	Website (inc ImmiAccount)	Department operated	Department operated
	Website search	Department operated	Supplier operated
	Social Media (Facebook, Twitter and Instagram)	Department operated	Open to consideration
	Web Chat	Department operated	Supplier operated
	Email / Web Form	Department operated	Supplier operated Web Form solution
Phone	Service Centre (including IVR)	Department operated	Supplier operated (including IVR Tier 1) Department operated in Tier 2 and 3.

Systems

System	Current State	Future State
Line of Business Systems		
Telephony	On-premise Genesys	Tier 1 – Supplier tool of choice Tier 2 – Department's Genesys
Ticket Management	On-premise Genesys	Supplier to provide Need to be available from the Department's infrastructure for Tier 2 and Tier 3
Others	A range accessed through Department desktops	Tier 1 – no access Tier 2 – Access through Department desktops
Information Systems		
Knowledge Management	EKSS, based on Oracle – Service Cloud	Supplier to provide Need to be available from the Department's infrastructure for Tier 2 and Tier 3
Others	A range accessed through Department desktops	Tier 1 – limited number through browser Tier 2 – Access through Department desktops
Productivity Systems		
All	A range accessed through Department desktops	Supplier to provide Need to be available from the Department's infrastructure for Tier 2
Record Keeping across all Systems		
All	A range of systems	Department maintains responsibility Supplier should purge all data it has shipped to the Department and no longer needs for operations

Physical and ICT Security

Need to demonstrate:

- Accredited facilities according to the Protective Security Manual
 - Zone 1 for Tier 1
 - Zone 2 for Tier 2
- All information protected according to the Information Security Manual (ISM)
- Refer to www.scec.gov.au



Transition

The effective transition to the external Service Provider is critical. Transition needs to be done as cost effectively as possible, without compromising service levels.



Cost effectively as possible



without compromising service levels

Transition

To help you prepare a transition plan and provide you the opportunity to demonstrate your understanding of our business, the tender documentation includes:

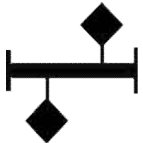


Enquiry volumes for
each Service Centre



Commentary on
seasonality of calls

Transition



Clearly show the key milestones to achieve our strategic objectives for transition

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Be clear in articulating what support you need from us



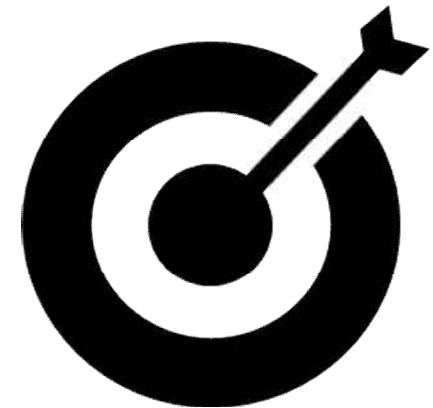
Provide examples of where you have achieved a similar transition



Demonstrate your plan to obtain accreditation at the appropriate Zone level for each facility and meet the ITSM requirements.

What we are looking for in the RFT

- Provide specific details demonstrating understanding of our business over generic marketing material and methodologies
- Provide a good overview of the proposed solution
- Clearly show the key milestones to achieve our strategic objectives
- Clearly identify support needed from the Department to complete transition
- Include relevant client case studies
- Ensure that you address the 'Essential' and 'Highly Desirable' evaluation criteria



Enterprise Knowledge Support System (EKSS)

- What is EKSS?
- How to access EKSS?
- What information will you have access to?

Questions?



Client Enquiry Services RFT
Industry Briefing Day
Tuesday 20 June

Talking Points

Tara Cavanagh
Opening remarks

Overview

- Welcome
- Thank you for REOI submission
- Recordings
- Presenters
- Questions and answers
- Q&A available on AusTender



Department of Immigration and Border Protection

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- Good afternoon everyone. I am Tara Cavanagh, Acting FAS Digital Transformation and Channels Division, and I would like to welcome you to today's industry briefing.
- Thank you for your REOI submission and congratulations on being shortlisted to submit a response to the RFT. We obtained very helpful information from the REOI process and it has helped us understand the range of innovations and technologies currently available in the market.
- We are excited to embark on this second stage approach to market to further define the Department's future client enquiry services, on and offshore.
- Before we proceed further, there are a number of housekeeping points to note.
- We plan to record this session to assist us to accurately document all of the questions and answers, which we then plan to make available through AusTender. Do you have any objections?
- Once we finish documenting the discussions from this session we will delete the recording.
- Please do not record the session, please turn your mobile phone off or turn it to silent.
- This industry brief is subject to the terms and conditions of the RFT. Tenderers should not construe anything discussed today as amending or adding to the RFT unless the amendment or addition is confirmed by way of an addendum.
- If you need to use a bathroom, just let us know as you will need to be escorted.
- Apart from myself, five other people will present today. They are:
 - s22(1)(a)(ii) —Director, Service Centre Support Section
 - s22(1)(a)(ii) —A/g Assistant Director, Service Centre Support Section
 - s22(1)(a)(ii) —Solution Architect, Service Centre Support Section

- s22(1)(a)(ii) —Assistant Director, Service Centre Support Section
- s22(1)(a)(ii) —Assistant Director, Service Centre Support Section
- If I could also introduce Renelle Forster who has recently re-joined us here as the Assistant Secretary of the branch of which this RFT is being run.
- You can ask questions at the end of each session.
- Alternatively, at the end of the briefing you can place questions in the box provided by the door.
- Any questions asked today and subsequent answers, including any we take on notice, and those put in the box, together with today's presentation, will be published on AusTender.
- The briefing should finish by 4.00 pm.
- I would now like to introduce s22(1)(a)(ii), Director Service Centre Support who will talk to you about the RFT primary goal and strategic objectives.

s22(1)(a)(ii)

Strategic context

Strategic context



As part of the Budget, the Government announced significant reform to Australia's visa and citizenship services



This reform will be a multi-year, staged programme



This tender is informed from the REOI and subsequent analysis

Department of Immigration and Border Protection

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- On Budget 2017-18 night, the Government announced significant reform to Australia's visa and citizenship services.
- The Department continues to manage increasing numbers of visa and citizenship applications, in an increasing complex global security environment.
- The need for new and innovative products and digital platforms to manage the demands of a competitive global market is stronger than ever.
- Our goal is a simple, easy and streamlined experience for the vast majority of visa and citizenship applicants.
- As part of the reform, the Government will introduce:
 - an innovative service delivery model and more digital services that will increase processing efficiency and improve the client experience
 - an enhanced intelligence and identity capability, building on the recent work of the Government and the Department.

- Immigration reform is a multi-year, staged programme. It will take some time to engage with the market to explore new technologies to help design and build a visa processing platform that will better manage risk, increase efficiency in processing and improve the visa applicant experience.
- This RFT for client enquiry services is part of the broader programme of immigration reform to improve efficiencies and provide innovative service delivery.
- As stated in my opening remarks, the RFT has been informed through the information obtained from the REOI and subsequent evaluation.
- We look forward to working in close partnership with the successful tenderer for client enquiry services to achieve our goals.

Primary goal

RFT primary goal

By early 2018, client enquiry services currently managed by our service centres in Sydney, London and Ottawa, will be outsourced to an external service provider operating from an onshore location...



Department of Immigration and Border Protection

- I will now cover our primary goals for the RFT.
- Our primary goal is that by June 30 2018, client enquiry services currently managed by our service centres in Sydney, London and Ottawa, will be outsourced to an external service provider operating from an onshore location...

RFT primary goal

...and this needs to be done as cost effectively as possible, without compromising service levels.



Department of Immigration and Border Protection

- ...and this needs to be done as cost effectively as possible without compromising service levels.
- The Service Levels and their measurements are set out in Schedule 6 (Service Levels and Service Credits) of the Draft Contract in the RFT pack.

Strategic objectives

Strategic objectives



Improve Client Service Levels to meet industry standards



Channel shift clients from high-cost in-person channels to lower-cost self-serve digital channels

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- Within the broader immigration reform process, in terms of our client enquiry services, the Department is seeking to achieve three strategic objectives:
 1. improve client service levels so they meet industry standards and benchmarks
 2. move clients from high cost in-person channels to lower cost self-service digital channels

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- The successful tenderer will need to demonstrate how it will achieve these objectives.
- Are there any questions?
- I would now like to introduce s22(1)(a)(ii), A/g Assistant Director, Service Centre Support to talk about business requirements.

s22(1)(a)(ii)

Business requirements

Business requirements - highlights

- Act as the front door for client enquiries
- Act as the first point of resolution for client enquiries
- Escalate enquiries to the Department under agreed circumstances only (as per the Escalation Matrix)
- Provide information only to a client and not advice

- Good afternoon everyone. This afternoon I am going to talk to you about business requirements.
- I would like to draw your attention to elements of the Department's future client enquiry services, by highlighting some of the important, high level business requirements set out in the RFT.
- In the future, all client enquiries will pass through the Service Provider's front door. This means that all enquiries generated through the available channels will be triaged by the Service Provider prior to resolution or escalation to the Department.
- We expect that the Service Provider will be the first point of resolution for all client enquiries if unable to resolve, they may escalate to the Department.
- The RFT pack includes an escalation matrix, which maps out the type of enquires, the Service Provider could expect from clients. It is a *living document* that will allow you to understand which enquiries will most likely require escalation to the Department.
- I will provide you some more information about escalation in a moment.
- The Service Provider will be accountable for giving clients information, **not advice**.
- Advice is defined as immigration assistance under the *Migration Act 1958*, which prescribes restrictions on giving of immigration assistance, and penalties do apply for breach of the Act.

- An example of information versus advice: you may provide information to a client about what they require in order to apply for a visa, but you may not advise them which visa they should apply for.



- The Department works in an ever-changing environment that requires flexibility and timeliness.
- The service provider will need to respond to changes in legislation, political announcements and departmental changes, in a flexible and timely way. These announcements and changes may result in a surge in enquiries.
- An example is the recent Government announcement to abolish and replace the 457 visa. Our service centres were informed of the announcement at the same time as the public and the 457 area worked quickly to update information and brief staff to ensure they could manage the surge of client enquiries, without compromising service levels. In the case of this announcement, calls spiked by up to 40% over the course of the first day and remained up to 20% higher for the following 7 days.
- Many areas of the Department currently respond to client enquiries.
- In your response, you are required to demonstrate your capability to manage client enquiries beyond the current scope of the Service Centres.
- This includes approximately 1.2 million enquiries per year that are currently managed by the offshore Service Delivery Partners and approximately 800,000 enquiries per year that are currently managed by onshore visa processing and helpdesk areas.
- In your response, you should describe your ability to maximise value to the Department for future increases in client enquiry volumes for both:
 - Future increases in onshore enquiries that need to be managed onshore; and
 - Future increases in offshore enquiries that do not need to be managed onshore.
- There will be enquiries that require information held on the Department's Line of Business Systems to resolve. Access will be provided to service these enquiries, noting that relevant security checking processes will need to be undertaken before staff will be allowed access.
- Line of Business Systems are only to be used where it is necessary in order to resolve an enquiry.

Enquiry tiering

Business requirements— enquiry tiering

Tier 0	Defined as self-service for the client. Publicly accessible content such as a website or social media where the client is able to access the information without interaction with the Department's staff or representatives. Includes accessing various online service applications available after following prescribed log-in processes.
Tier 1	An assisted enquiry that could have been answered by the client using publicly available information, such as information about a visa, or processing times. Enquiries do not require access to the information held in the Department's Line of Business Systems.
Tier 2	An assisted enquiry that requires specific knowledge of the client's record, application or service request process and therefore requires access to the information held in the Department's Line of Business Systems.
Tier 3	A final point of resolution, an enquiry that requires a departmental subject matter expert to answer the enquiry.





- Tiering is the core of our future client enquiry handling and is used to categorise and rationalise the level of assistance that is required to resolve an enquiry.
- The tiers are described on the slide, I will provide examples to demonstrate how a client enquiry is resolved at each tier. These are only examples.
- My colleague, Stephen Anderson, who is presenting next, will provide examples of the key technical interaction points of each tier.
- TIER 0 - Digital Self Service.
 - A client wants to come to Australia to study but does not know what visa to apply for. They go to the Department's website and use the Visa Finder tool to find information about what visa is most applicable to meet their needs.
 - **The client has resolved their enquiry using publicly accessible information and without interacting with staff.**
- TIER 1- An Assisted Enquiry
 - As with the previous example, the client has been to the website but are unable to find the information they require about studying in Australia.
 - They call the Service Centre to ask what visa they should apply for.
 - The client enquiry officer directs the client to use the visa finder tool, possibly directing them to a hyperlink or talking them through the tool and its functionality.
 - The client uses the visa finder tool to find the relevant visa, information.
 - **The enquiry has been resolved using publicly available information with the help of a client enquiry officer.**
- TIER 2 – requires information from the Department's Line of Business Systems
 - The client has applied for a student visa using our online lodgement tool. However, they have not heard from the Department for two months.
 - They check the website to find that the average processing time for a student visa is one month so they call the service centre for an update.

- The client enquiry officer assesses the enquiry to require access to the Department's Line of Business Systems to resolve.
 - The officer confirms the clients identity, accesses the system and finds that the application is subject to some required checks.
 - The officer reassures the client that their application is progressing and informs the client that they should continue to wait, regularly checking their online account.
 - **The enquiry has been resolved using information in the Department's Line of Business Systems.**
- **TIER 3 – Requires a Departmental Subject Matter Expert to Resolve**
 - As per the previous example, the client continues to wait for departmental contact, logging into their online account they find that they have received a letter.
 - They are unable to open the letter and receive an error message.
 - The client calls the Service Centre for help.
 - The client enquiry handling officer assesses the enquiry to require technical helpdesk support. After confirming the client's identity, they tell the client to check their online account in the coming days for a result, as they will escalate to the departmental subject matter expert.
 - The officer escalates in writing to the technical helpdesk, the helpdesk receive the escalation and resolve the enquiry. This is reflected in the client's online account.
 - **The enquiry has been resolved with the help of a departmental subject matter expert (SME).**

Business requirements—escalations

Business requirements - escalations

Be the first point of resolution for client enquiries

-  Resolve enquiries in accordance with the approved Escalation Matrix
-  Escalations may be due to complexity, area of specialisation, urgency or sensitivity level
-  Routing rules will determine which enquiries are to be automatically transferred to the Department and which are to be triaged by the Service Provider
-  Co-design activities will help to determine the routing rules

Department of Immigration and Border Protection

- As stated in the business requirements highlights, the Service Provider is **the first point of resolution for all client enquiries**. In the scenarios where an enquiry

requires a departmental SME to resolve, the Service Provider will need to escalate the enquiry to the Department.

- An escalation may be necessary due to complexity, area of specialisation, urgency or sensitivity. It is critical to use the **Escalation Matrix** to decide whether to escalate or not.
- Consistent with Attachment B requirements of the RFT, it is expected that co-design activities, undertaken during contract negotiations and transition, will further determine which enquiries are to be automatically transferred to the Department and which enquiries are to be triaged by the Service Provider. Please ensure that you pay attention to this requirement when developing your response.
- Are there any questions?
- I would like to now introduce s22(1)(a)(ii), Solution Architect, Service Centre Support Section to talk about key technical elements.

s22(1)(a)(ii)

Technical interaction

- Thank you s22(1)(a)(ii). Good afternoon everyone.
 - This afternoon I am going to talk to you about the technical interactions the Department assumes will happen between clients, the Service Provider and ourselves.
 - These technical interactions show another perspective on the business requirements outlined by s22(1)(a)(ii), and should help you to understand the scope of services we are expecting from a Supplier.
 - Unless otherwise stated, the terms Service Provider and Supplier are used interchangeably.
 - This model is covered in the Technical Background Material document in Supporting Documents section of RFT.
 - It is based on assumptions and constraints. The purpose of this walkthrough is to explain those assumptions and constraints as a means for you to better understand what we are looking for and the possibilities we are open to.
 - You are free to propose a solution based on different interactions, however please treat the presented model as a baseline and explain the benefits of your variations.
 - The Visio file provided in the RFT pack will assist you in describing variations back to us.

Interaction Model walkthrough

The diagram illustrates the interaction model between a Client and Department ICT. On the left, a person is shown sitting at a desk with a laptop, labeled 'Client'. On the right, there are two server racks labeled 'Department ICT'. A box in the center contains the text: 'Clients use the Department's website, social media sites and immediate response to resolve their enquiries.' Below this box, another box states: 'This self service model is referred to as 'Fast Enquiry Handling''. Two curved arrows connect the Client to the Department ICT: a purple arrow labeled 'Department website and social media sites' and a blue arrow labeled 'Department response and support via phone'.

Client

Clients use the Department's website, social media sites and immediate response to resolve their enquiries.

This self service model is referred to as 'Fast Enquiry Handling'.

Department website and social media sites

Department response and support via phone

Department ICT

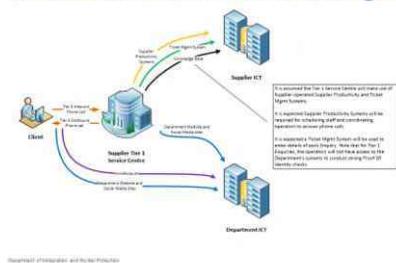
- # Interaction Model walkthrough
-
- The diagram illustrates the Interaction Model with the following components and flows:
- Client**: Represented by a person icon. It sends a "Request" to **Supplier IT 1 (Internal Location)** and receives a "Response" back.
 - Supplier IT 1 (Internal Location)**: Represented by a server icon. It sends a "Request" to **Supplier IT** and receives a "Response" back.
 - Supplier IT**: Represented by two server icons. It sends a "Request" to **Supplier IT 1 (Internal Location)** and receives a "Response" back.
 - Department IT**: Represented by two server icons. It receives a "Request" from **Supplier IT 1 (Internal Location)** and sends a "Response" back.
- Additional information flows and labels include:
- A "Request" from **Client** to **Supplier IT**.
 - A "Response" from **Supplier IT** to **Client**.
 - A "Request" from **Supplier IT** to **Department IT**.
 - A "Response" from **Department IT** to **Supplier IT**.
 - A "Request" from **Supplier IT 1 (Internal Location)** to **Department IT**.
 - A "Response" from **Department IT** to **Supplier IT 1 (Internal Location)**.
- Text boxes provide further details:
- Supplier IT**: The Two Location Service interacts with one of the Department's Work and Social Office sites to receive and provide ITs.
 - Supplier IT 1 (Internal Location)**: The Two Location Service has not requested Client calls for its maintenance information with Supplier IT 1. Such an event can be requested from the Client's security knowledge and other information.
 - Department IT**: This means to Client specify information can be requested. The IT 1 Location has no details with the identity of the Client.
 - Department IT**: The Two Location Service, presented with a Client's request, cannot knowledge from its own knowledge and security knowledge and other information. The Department will not use the IT or knowledge base.

- # Interaction Model walkthrough
-
- The diagram illustrates the Interaction Model with the following components and interactions:
- Client**: Represented by a person icon. It initiates the process by sending a **Request** to **Session Layer 1**.
 - Session Layer 1 (Service Gateway)**: A blue building icon. It receives the request and sends a **Request** to **Session Layer 2**.
 - Session Layer 2 (Service Gateway)**: A blue building icon. It receives the request and sends a **Request** to **Department K3**.
 - Department K3**: A blue building icon. It receives the request and sends a **Response** back to **Session Layer 2**.
 - Session Layer 2** then sends a **Response** back to **Session Layer 1**.
 - Session Layer 1** finally sends a **Response** back to the **Client**.
- Additional details from the diagram:
- Session Layer 2** is described as "The User Service Gateway connected with the other Department's Service and Application layer to capture the Request".
 - Session Layer 1** is described as "The User Service Gateway to request from other department through the User Service Gateway".
 - A note states: "The Request and Response are captured in the Session Layer 1 and both are not sent to the other department as the request is already captured and the response is already captured".
 - Another note states: "The Request and Response are captured in the Session Layer 1 and both are not sent to the other department as the request is already captured and the response is already captured".
 - A final note states: "The Request and Response are captured in the Session Layer 1 and both are not sent to the other department as the request is already captured and the response is already captured".

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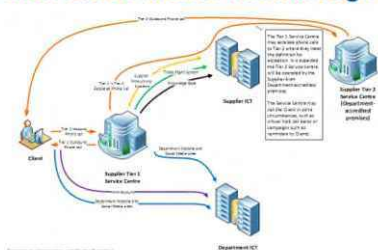
- We assume the Service Provider may also operate a knowledge base to assist their operators with the processes of assisting clients.

Interaction Model walkthrough



- We are also assuming the Supplier will have some form of Productivity Systems they will use to organise their staff, and a Ticket Management System to record the details of the calls that are taken.
- Note that as a Tier 1 centre without access to Line Of Business systems, that clients cannot be matched with a strong Proof Of Identity check at this stage, as the identity details required to conduct that check are stored in the Line Of Business systems that the Tier 1 operators will not have access to because they are outside a Zone 2 accredited facility and not operated by operators with BASELINE and ESC clearances.

Interaction Model walkthrough



- Calls that require individual details of the client will need to be handled by an operator with access to the Department's Line Of Business systems. These will only be available from a Zone 2 accredited facility by operators with BASELINE and ESC clearances. References to those terms are included in the RFT pack.
- We are assuming the Supplier will operate separate Tier 1 and Tier 2 facilities because of the additional costs of Tier 2 zoning and clearances, however that is an assumption we've made and you may choose to provide a merged facility if you think that is a value for money solution.

Interaction Model walkthrough

The diagram illustrates the Interaction Model, showing the flow of data and control between a User, a Client, and three Servers (Server 1, Server 2, and Server 3).

Key Components and Interactions:

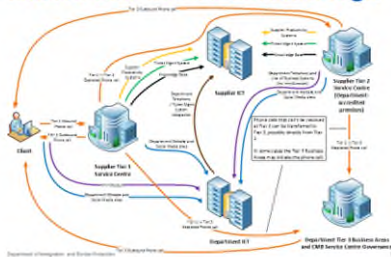
- User:** Interacts with the Client via a "The User" connection.
- Client:** Acts as the primary interface, sending "The Client" requests to the Servers and receiving "The Server" responses.
- Server 1:** Processes requests and returns "The Server" responses to the Client.
- Server 2:** Processes requests and returns "The Server" responses to the Client.
- Server 3:** Processes requests and returns "The Server" responses to the Client.
- Database:** Stores data and is accessed by the Servers via "The Database" connection.
- Application:** Manages the flow of data and control between the Client and the Servers.
- Interface:** Provides a common set of operations for the Client and the Servers.
- Network:** Facilitates communication between the Client and the Servers.
- Transport:** Manages the flow of data and control between the Client and the Servers.
- Protocol:** Defines the rules for communication between the Client and the Servers.
- Message:** Carries data and control information between the Client and the Servers.
- Packet:** Encapsulates data and control information for transmission over the network.
- Frame:** Encapsulates data and control information for transmission over the transport layer.
- Segment:** Encapsulates data and control information for transmission over the application layer.
- Connection:** Establishes a logical link between the Client and the Servers.
- Session:** Represents a single interaction between the Client and the Servers.
- Transaction:** A unit of work that is executed by the Servers.
- Operation:** A specific action performed by the Servers.
- Action:** A specific operation performed by the Servers.
- Event:** A specific occurrence that triggers an action.
- Trigger:** A condition that causes an action to be executed.
- Alarm:** A notification that an event has occurred.
- Notification:** A message that is sent to the Client or the Servers.
- Alert:** A warning that an event has occurred.
- Warning:** A message that is sent to the Client or the Servers.
- Error:** A message that is sent to the Client or the Servers.
- Exception:** A message that is sent to the Client or the Servers.
- Fault:** A message that is sent to the Client or the Servers.
- Failure:** A message that is sent to the Client or the Servers.
- Crash:** A message that is sent to the Client or the Servers.
- Shutdown:** A message that is sent to the Client or the Servers.
- Restart:** A message that is sent to the Client or the Servers.
- Recovery:** A message that is sent to the Client or the Servers.
- Backup:** A message that is sent to the Client or the Servers.
- Restore:** A message that is sent to the Client or the Servers.
- Migration:** A message that is sent to the Client or the Servers.
- Upgrade:** A message that is sent to the Client or the Servers.
- Patch:** A message that is sent to the Client or the Servers.
- Update:** A message that is sent to the Client or the Servers.
- Delete:** A message that is sent to the Client or the Servers.
- Select:** A message that is sent to the Client or the Servers.
- Join:** A message that is sent to the Client or the Servers.
- Aggregation:** A message that is sent to the Client or the Servers.
- Sort:** A message that is sent to the Client or the Servers.
- Filter:** A message that is sent to the Client or the Servers.
- Projection:** A message that is sent to the Client or the Servers.
- Rename:** A message that is sent to the Client or the Servers.
- Create:** A message that is sent to the Client or the Servers.
- Drop:** A message that is sent to the Client or the Servers.
- Alter:** A message that is sent to the Client or the Servers.
- Grant:** A message that is sent to the Client or the Servers.
- Revoke:** A message that is sent to the Client or the Servers.
- Commit:** A message that is sent to the Client or the Servers.
- Rollback:** A message that is sent to the Client or the Servers.
- Savepoint:** A message that is sent to the Client or the Servers.
- Release:** A message that is sent to the Client or the Servers.
- Flush:** A message that is sent to the Client or the Servers.

The diagram shows the flow of data and control between the User, the Client, and the Servers, highlighting the various components and interactions involved in the system.

- # Interaction Model walkthrough
-
- The diagram illustrates the Interaction Model, showing the flow of information and data between a Client and three tiers of suppliers (Supplier Tier 1, Supplier Tier 2, and Supplier Tier 3). The model is structured as follows:
- Client:** The central entity, represented by a person icon, who interacts with the suppliers.
 - Supplier Tier 1 (Service Center):** The first tier of suppliers, represented by a building icon. It provides services to the Client and interacts with Supplier Tier 2.
 - Supplier Tier 2 (Service Center):** The second tier of suppliers, represented by a building icon. It provides services to Supplier Tier 1 and interacts with Supplier Tier 3.
 - Supplier Tier 3 (Service Center):** The third tier of suppliers, represented by a building icon. It provides services to Supplier Tier 2 and interacts with Supplier Tier 1.
- The diagram shows various data flows between these entities, categorized into different types of information:
- Supplier Productivity:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Product Specifications:** Flow from Supplier Tier 2 to Supplier Tier 3.
 - Supplier Performance:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Quality:** Flow from Supplier Tier 2 to Supplier Tier 3.
 - Supplier Financials:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Environmental:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Social:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Governance:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Risk:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Compliance:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Sustainability:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Innovation:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Leadership:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Culture:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Values:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Mission:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Vision:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Strategy:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Goals:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Objectives:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier KPIs:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Metrics:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Indicators:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Benchmarks:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Best Practices:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Lessons Learned:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Continuous Improvement:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Innovation Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier R&D Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Marketing Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Sales Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Customer Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Supplier Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Partner Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Stakeholder Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Ecosystem Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Network Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Community Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Industry Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Market Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Sector Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Economy Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Society Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Environment Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier Planet Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
 - Supplier People Pipeline:** Flow from Supplier Tier 1 to Supplier Tier 2.
- The diagram also includes a section titled "Also consider the Tier 1, 2, & 3 ecosystem" which states: "The Supplier's Productivity and Supplier Mission. The Supplier's Innovation and Supplier Vision. The Supplier's Sustainability and Supplier Strategy. The Supplier's Goals and Supplier Objectives. The Supplier's KPIs and Supplier Metrics. The Supplier's Indicators and Supplier Benchmarks. The Supplier's Best Practices and Supplier Lessons Learned. The Supplier's Continuous Improvement and Supplier Innovation Pipeline. The Supplier's R&D Pipeline and Supplier Marketing Pipeline. The Supplier's Sales Pipeline and Supplier Customer Pipeline. The Supplier's Supplier Pipeline and Supplier Partner Pipeline. The Supplier's Stakeholder Pipeline and Supplier Ecosystem Pipeline. The Supplier's Network Pipeline and Supplier Community Pipeline. The Supplier's Industry Pipeline and Supplier Market Pipeline. The Supplier's Sector Pipeline and Supplier Economy Pipeline. The Supplier's Society Pipeline and Supplier Environment Pipeline. The Supplier's Planet Pipeline and Supplier People Pipeline."

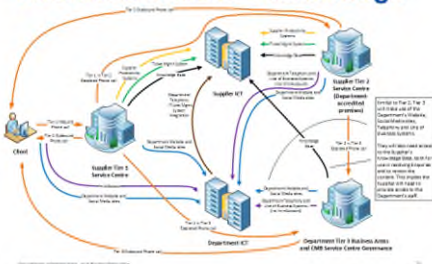
- 12 of 21

Interaction Model walkthrough



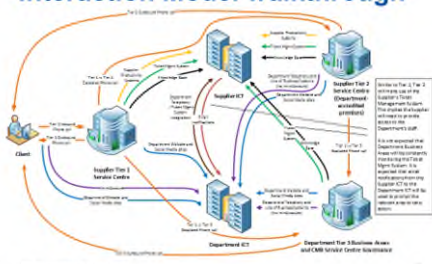
- Calls requiring specialist Departmental input can be escalated internally.
- Some calls may be escalated to this Tier 3 level directly from Tier 1 according to the escalation matrix provided in the RFT. These generally relate to contacts from the public that are not strictly client enquiries, such as reporting suspected illegal maritime activity.

Interaction Model walkthrough



- Similar to Tier 2, the Tier 3 operators will require access to the Knowledge Base, public information sources and Line Of Business systems. Remembering the Tier 3 operators are DIBP staff operating from their normal desktops.

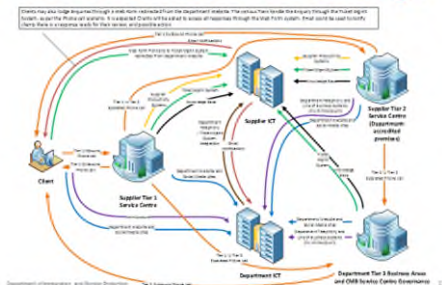
Interaction Model walkthrough



- Also similar to Tier 2, the Tier 3 operators will require access to the Ticket Management System.
- We expect they should receive email notifications of jobs assigned through the Ticket Management System, as these staff may have other duties and only service client enquiries on an exceptional basis.

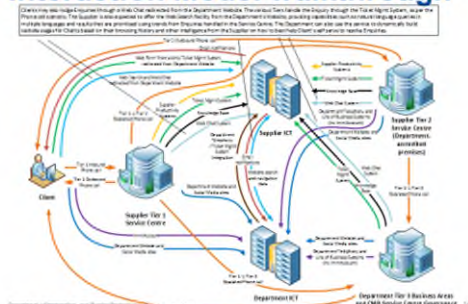
- They will not need access to the Productivity System as they are Departmental staff and not subject to Supplier staffing or rostering constraints.

Interaction Model walkthrough



- Enquiries may also arrive in written form. We are assuming a webform facility will be provided by the Supplier, and integrated into the Department's website to provide a seamless experience.
- We expect webform submissions will lodge entries in the Ticket Management System, and the flows described for the phone situation will then move the ticket through the appropriate Tiers.
- The Department expects to co-design the form structure to allow for appropriate information gathering to meet the Department's requirements, particularly for cases that should be raised to Tier 3.
- The Department is looking for integration of self-service into the web form so that clients are directed to self-service information as far as possible before submitting the enquiry.
- Clients will need email notification when there is a response waiting for them. This will require the clients to have an identity in the webform / Ticket Management System so they can log on to see their responses. The Department is keen to investigate integrating your webform system with the Department's client identities (such as those used by ImmiAccount) to minimise the number of identities used by clients to deal with the Department.

Interaction Model walkthrough

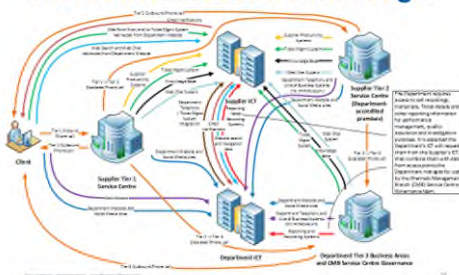


- The Department is looking for the Supplier to provide a web chat solution. This could be proactive or on demand. We expect escalation processes for this would follow the same path as for other channels, with all details entered into a Ticket Management System, and the web chat client available from the Department's desktop and network for Tiers 2 and 3.
- We are open to solutions that use automated chat agents as a first point, with possible hand-off to human-assisted chats where the automated agent cannot resolve an enquiry.
- We are also looking for the Supplier to operate the web search facility for the Department's website. We believe industry can provide capabilities such as natural language and foreign language searching, possibly aided by techniques such as Artificial Intelligence, that the Department does not currently have strength in those capabilities.
- The Supplier can use insights from trends in the service centres to inform search results. For example, ministerial announcements or sudden external events that drive significant call volumes could be used to prioritise web search results to improve self-service during surge events.
- We expect the Supplier will provide insights on the areas of the website and ImmiAccount that could improve the ability of Clients to self-service. This self-service will remove some of the assisted enquiry volume the Supplier would otherwise service.

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- We are also looking to use the Supplier's web search / AI engine to help deliver the core website content. We have proposed an interaction model where all client interactions on the website, such as navigation and search actions, are sent to the Supplier's engine. The Department's web content management system can then draw on insights from this engine to help dynamically present relevant content to the client, potentially without them knowingly performing a search.

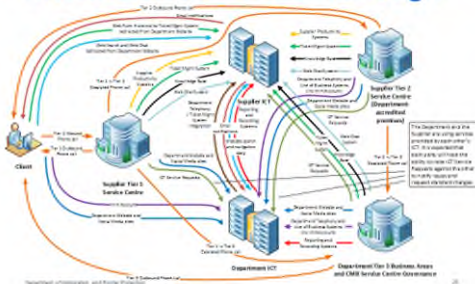
Interaction Model walkthrough



- The Department will manage the Supplier relationship, in part informed by statistics and analysis of client enquiries provided by the Supplier. The Department is expecting

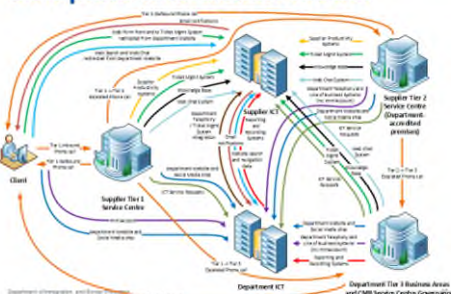
to be able to reach into the Supplier to retrieve the reporting data identified in the requirements, including selected call recordings and transcripts.

Interaction Model walkthrough



- As the Department and the Supplier are providing services to each other, it is expected that there will be a service request process in both directions for both standard request, such as adds, moves and changes, and incidents such as failure of the Department's website or the Supplier's Ticket Management System.
- We expect the Supplier will use the Department's existing service request catalogue and ICT help desk processes to lodge service requests with us.

Complete Interaction Model



- Which leaves the complete draft interaction model.
- As mentioned earlier, you are free to propose a solution based on different interactions, however please treat the presented model as a baseline and explain the benefits of your variations.

Channels & Access Points

Channel	Access Point	Current State	Future State
Digital	Website (inc ImmiAccount)	Department operated	Department operated
	Website search	Department operated	Supplier operated
	Social Media (Facebook, Twitter and Instagram)	Department operated	Open to consideration
	Web Chat	Department operated	Supplier operated
	Email / Web Form	Department operated	Supplier operated Web Form solution
Phone	Service Centre (including IVR)	Department operated	Supplier operated (including IVR Tier 1) Department operated in Tier 2 and 3.

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- A different summary view of that information is to look at the before and after of the Channels & Access Points. This slide is intended to help you understand the change we will be going through and we are expecting you to help us move through. It shows the perspective from the client.

Systems

System	Current State	Future State
Line of Business Systems		
Telephony	On-premise Genesys	Tier 1 – Supplier tool of choice Tier 2 – Department's Genesys
Ticket Management	On-premise Genesys	Supplier to provide Need to be available from the Department's infrastructure for Tier 2 and Tier 3
Others	A range accessed through Department desktops	Tier 1 – no access Tier 2 – Access through Department desktops
Information Systems		
Knowledge Management	EKSS based on Oracle cloud ServiceNow system	Supplier to provide Need to be available from the Department's infrastructure for Tier 2 and Tier 3
Others	A range accessed through Department desktops	Tier 1 – limited number through browser Tier 2 – Access through Department desktops
Productivity Systems		
All	A range accessed through Department desktops	Supplier to provide Need to be available from the Department's infrastructure for Tier 2
Record Keeping across all Systems		
All	A range of systems	Department maintains responsibility Supplier should purge all data it has shipped to the Department and no longer needs for operations

- This shows changes to how we believe some of the groups of systems will be used, and again, we would like to use that to inform you of what we believe the change journey will be. That journey is one that you will be helping us move through.

Physical and ICT Security

Need to demonstrate:

- SCEC-endorsed facilities according to the Protective Security Manual
 - Zone 1 for Tier 1
 - Zone 2 for Tier 2
- All information protected according to the Information Security Manual (ISM)
- Refer to www.scec.gov.au



Department of Immigration and Border Protection

- Physical and ICT Security: note the need for the tenderers to demonstrate how they will obtain accreditation at the appropriate Zone level for each facility in line with the Protective Security Policy Framework (PSPF).
- Zone 2 (which is to be used for Tier 2 operators) is a step-up from Zone 1, so tenderers should ensure they secure a venue that can meet the requirements.
- There are also information security requirements as per the Information Security Manual (ISM), which is raised in Schedule 3.
- Are there any questions?

- I would like to now introduce s22(1)(a)(ii) —Assistant Director, Service Centre Support Section who will talk to you about Transition.

s22(1)(a)(ii)

Transition

Transition

The effective transition to the external Service Provider is critical. Transition needs to be done as cost effectively as possible without compromising service levels.



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- The effective transition to the external Service Provider is critical. To re-iterate what s22(1)(a)(ii) said, transition needs to be as cost effectively as possible, without compromising service levels.
- To help you demonstrate your understanding of our business, and prepare an effective transition plan, the RFT includes:

Transition

To help you prepare a transition plan and provide you the opportunity to demonstrate your understanding of our business, the tender documentation includes:







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- Enquiry volumes for each service centre over a 12 month period broken down by functional group or intent such as working in Australia, studying in Australia etc.
- Commentary on seasonality and surge of calls at the Sydney Service Centre, which handles almost 80% of our enquiry volume across the three service centres.
- For the Sydney Service Centre, we have also estimated Tier 1 and Tier 2 breakdown.
- This is a rich source of data and you should use it to inform your transition plan.

Transition

-  Clearly show the key milestones to achieve our strategic objectives for transition and transformation (cost neutrality)
-  Be clear in articulating what support you need from us
-  Provide examples of where you have achieved a similar transition
-  Demonstrate your ability to be accredited for Zone 2 SCEC-endorsed facility according to the Protective Security Policy Framework (PSPF) and meet the Information Security Manual (ISM) requirements

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- When preparing your transition plan, keep these points in mind:

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- While 30 June 2018 is our deadline for completing the transition to the Service Provider, the Department would consider a quicker transition if the risks of a quicker transition could be appropriately addressed (eg, a staged transition, etc). If a quicker transition is proposed, you should identify any elements that could help accelerate the speed of transition in your response.
- Be clear in articulating what support you would like from us.
- Provide examples of where you have achieved a similar transition, including the risks it posed and how you addressed those risks.
- Demonstrate your plan to obtain accreditation at the appropriate Zone level for each facility in line with the Protective Security Policy Framework (PSPF) and the ISM.

- Are there any questions?

- I would like to hand back to s22(1)(a)(ii) who will talk about what we are looking for in the RFT responses.

s22(1)(a)(ii)

RFT Response – what we are looking for in the RFT

What we are looking for in the RFT

- Provide specific details demonstrating understanding of our business over generic marketing material and methodologies
- Provide a good summary of the proposed solution
- Clearly show the key milestones to achieve our strategic objectives
- Clearly identify support needed from the Department to complete transition
- Include relevant client case studies
- Ensure that you address the 'Essential' and 'Highly Desirable' evaluation criteria



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- During the REOI we found that some respondents either did not answer a question or answered it vaguely using generic marketing material from their company handbook.

- While it was somewhat accepted at the REOI stage, it will not be enough to get you through the RFT.
- In preparing your response, keep these points in mind:
 - Provide specific details demonstrating understanding of our business over generic marketing material and methodologies
 - Provide a good overview of the proposed solution
 - Clearly show the key milestones to achieve our strategic objectives
 - Clearly identify the support that you need from the Department to complete transition, so your expectations of us
 - Include relevant client case studies
 - Ensure that you address the 'Essential' and 'Highly Desirable' evaluation criteria. These are listed in Attachment F – Tenderer Response Forms, Form4A: Tenderer's response to Evaluation Criteria.
- Are there any questions?
- I would like introduce you to s22(1)(a)(ii), Assistant Director, Service Centre Support Section to talk to you about the Enterprise Knowledge Support System (EKSS) and provide a demonstration.

s22(1)(a)(ii)

EKSS demonstration

Enterprise Knowledge Support System (EKSS)

- What is EKSS?
- How to access EKSS?
- What information will you have access to?

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What

- Hi everyone, I'm s22(1)(a)(ii) and I manage the Enterprise Knowledge Support System (EKSS) that the client service network use to obtain information to answer client enquiries. The aim is to achieve a single source of truth of updated information consistency across all inquiry channels that align to the policy and practice guidelines etc.

Access

- You have already been provided with access to EKSS, to allow you to understand the scale of knowledge available to users, how information is displayed and assist in preparing your tenders.

What information do you have access to:

- You have been provided with access to all information except for internal contacts within the Department. Based on this, you may have experienced some 'dead links' when you were navigating the site as you don't have access to these contact pages. If you are successful in the RFT process, access to these contact pages will become available.
- s22(1)(a)(ii) demonstrates EKSS.
- Are there any questions?

s22(1)(a)(ii)

- Thank you s22(1)(a)(ii)
- We are at the end of our presentation. Do you have any other questions?
- There is a Questions box where written questions can be submitted
- Thank you for attending the Industry briefing.