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**REQUEST FOR TENDER NO. 16106.110**



**MANAGEMENT AND PROVISION OF AQUATIC SERVICES FOR  
LAKESIDE LEISURE CENTRE AND THE CANBERRA OLYMPIC  
POOL**

**ON BEHALF OF**

**ECONOMIC AND DEVELOPMENT DIRECTORATE (EDD)**

**CONTACT OFFICER: SHAUNA OAKLEY**

**SHARED SERVICES PROCUREMENT**

**PHONE: (02) 6205 9998**

**FAX: (02) 6207 6500**

**EMAIL: [PROCUREMENTTHREE@ACT.GOV.AU](mailto:PROCUREMENTTHREE@ACT.GOV.AU)**

**ISSUE DATE: 26 NOVEMBER 2011**

**SITE INSPECTION DATE: TUESDAY, 13 DECEMBER 2011**

**CLOSING DATE: 20 DECEMBER 2011**

**CLOSING TIME: 2:00PM CANBERRA TIME**

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## **1. STANDARD CONDITIONS OF TENDER**

- 1.1.1. Tenderers must read this Request for Tender (RFT) in conjunction with the *Standard Conditions of Tender – Services* which Tenderers may download from Procurement Solutions' website at <http://www.procurement.act.gov.au/home>.
- 1.1.2. Any Special Conditions of Tender applying to this RFT are set out at section 5 of this RFT. Special Conditions take precedence over Standard Conditions of Tender to the extent of any inconsistency.

## **2. STATEMENT OF REQUIREMENTS**

See Attachment 1 – Statement of Requirements

## **3. ASSESSMENT**

### **3.1 Value for Money**

- 3.1.1. In evaluating Tenders the Territory has as its objective the attainment of best value for money and not necessarily the lowest tendered price.
- 3.1.2. Apart from the conformity with the requirements of this RFT, the Territory will evaluate Tenders in accordance with the criteria outlined below.

### **3.2 Threshold Criteria**

- (1) Completed and signed Statutory Declaration Form.

- 3.2.1. Tenders that do not meet the above threshold criteria will be regarded as non-conforming, and will not be considered for further assessment against remaining criteria.

### **3.3 Weighted Criteria**

#### **(1) Financial Resources and Management**

Tenderers are to provide:

- a) their financial history;
- b) proposed financial management systems for this Tender; and
- c) financial capacity of offer.

#### **(2) Management and Technical Resources**

Tenderers are to provide an outline of:

- a) management resources and structure;

- b) management, technical skills and knowledge in Aquatic and Facility Management; and
- c) experience in operating Aquatic and Leisure Centres in a contractual environment including a list of similar projects undertaken over the last five (5) years, including;
  - i. the period/length of Contract; and
  - ii. site contacts.

(3) **Proposed Service Delivery**

Tenderers are to provide an outline of:

- a) range of leisure, recreational and wellness based programs and service development; and
- b) innovative developments and fitness facilities upgrade proposal.

(4) **Managing the Service**

Tenderers are to provide details of:

- a) operational and quality plans;
- b) risk management and OH&S;
- c) asset management;
- d) information technology management;
- e) staff development and training;
- f) customer service and marketing commitment;
- g) business planning, reviews and monitoring; and
- h) reporting procedures and systems.

(5) **Pricing**

Tenderers must complete the Pricing Schedule template that has been included in the RFT. All pricing must be submitted in a separate sealed envelope and include GST where applicable.

**3.4 Non-weighted Criteria**

(1) **Pricing**

Tenderers must complete the Pricing Schedule template that has been included in the RFT. All pricing must be submitted in a separate sealed envelope and include GST where applicable.

(2) **Risk**

This includes a financial viability check at the Tender Evaluation Teams discretion and possible contact with referees including ones that may be selected by the Territory's Tender Evaluation Team at their discretion.

### 3.5 Best and Final Offer

A best and final offer may be sought from the preferred or all Tenderers at the Evaluation Team's discretion at any time.

### 3.6 Assessment timetable

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

RFT advertised	26/11/2011
Brief to Industry / Site inspection	13/12/2011
RFT closes	20/12/2011
Contract Awarded	March 2012
Debrief unsuccessful Respondents	March/April 2012

## 4. CONTRACT REQUIREMENTS

- 4.1.1. The form of Contract expected to be used for the Services required by this RFT is at Attachment 3. The Territory reserves the right to alter provisions of the Contract and the form of Contract if an alternative is determined to be more appropriate.
- 4.1.2. The Contract is expected to be for an period of five (5) years, with no provision for extensions.
- 4.1.3. Without limiting the insurance that is required to be held by the successful Tenderer by law (e.g. workers' compensation) or under Contract with the Territory, the successful Tenderer will be required to take out and maintain:
- (1) Public liability insurance with coverage in the amount of not less than \$20,000,000.00 in respect of each occurrence;
  - (2) Professional indemnity insurance with coverage in the amount of \$10,000,000.00 in the annual aggregate;
  - (3) Product liability insurance to a value of \$20,000,000.00 in the annual aggregate. Policies should note the interests of the Territory;
  - (4) Comprehensive insurance for all motor vehicles and other plant that will be used in the performance of the Contract; and
  - (5) If the Contractor carries out the Services under the Contract in person, personal injury insurance covering the Contractor against injury or death suffered while carrying out the Services under the Contract.

## **5. SPECIAL CONDITIONS OF TENDER**

### **5.1 Site Inspection or Industry Briefing (Non Compulsory)**

- 5.1.1. A site inspection for both locations will be held on Tuesday, 13 December 2011 commencing at 9.30am. Tenderers are requested to meet at Tuggeranong Leisure Centre. The site inspection is anticipated to take approximately three (3) hours.
- 5.1.2. Details of the attendee's Name, Position, Company and Contact Number are to be forwarded to the Contact Officer prior to the briefing.
- 5.1.3. Depending upon the level of enquiries, attendance at the industry briefing shall be limited to two (2) representatives from each Tenderer.

### **5.2 Quality Assurance Requirements**

- 5.2.1. For the Services to be provided under the ensuing contract, the minimum requirement of the Tenderer and/or its services is one or more of the following quality assurance criteria:
  - (1) quality assurance partial certification to ISO 9001:2008;
  - (2) professional association accreditation;
  - (3) certification by an approved industry association;
  - (4) professional qualifications relevant to the task; and/or
  - (5) product certification to an Australian Standard or other relevant standard.
- 5.2.2. The Tenderer must specify the quality assurance criteria applicable to it and/or its services.
- 5.2.3. A Tender submitted by a Tenderer that cannot demonstrate that the specified quality assurance requirements have been achieved will be non-conforming.

### **5.3 Qualifications, Training and Knowledge**

- 5.3.1. The successful Tenderer will be required to ensure that all employees are adequately supervised to ensure that all Services are delivered in accordance with the requirements of the contract, and any relevant legislation and Australian Standard.

## 6. TENDERER DECLARATION

- 6.1.1. Tenderers must complete and submit with their Tenders the Tenderer Declaration in the form provided at Attachment 5 to this RFT. The Tenderer must be a legal entity and the "ACN" or "ABN" must accurately correlate with the legal entity.
- 6.1.2. Failure to submit the completed Declaration or to supply required information (unless information is specified by a Tenderer to be "Not Applicable") may render a Tender non-conforming.
- 6.1.3. If a Tenderer is a company, include ACN, and if a partnership or sole proprietor, include the full names of individual members and ABN.
- 6.1.4. The Tenderer must include in its Tender a completed and Signed Statutory Declaration including an Ethical Suppliers Declaration in the form provided at Attachment 6.

## 7. LODGEMENT OF TENDERS

- 7.1.1. Tenders must be either posted or hand delivered by the closing time and date to:

The Tender Box  
Ground Floor North Building  
Dame Pattie Menzies House  
16 Challis Street  
DICKSON ACT 2602

- 7.1.2. All enquiries in relation to this RFT must be directed in writing to the Contact Officer.
- 7.1.3. Below is a list of actions and/or information that Tenderers should review prior to submitting their Tender.
- Tender submitted on time
  - Original and 3 copies submitted
  - All Assessment Criteria addressed
  - Completed and signed Tenderer Declaration
  - Completed and signed Statutory Declaration

**ATTACHMENT 1 – STATEMENT OF REQUIREMENTS**

## ATTACHMENT 2 – PRICING SCHEDULE

Please refer to Attachment 4 for terms of Pricing.

<b>CONTRACT PRICE – per annum, GST inclusive.</b>		
	<b>Canberra Olympic Pool</b>	<b>Tuggeranong Leisure Centre</b>
Payable by the Territory to the Contractor <i>Delete whichever is not applicable</i>	\$	\$
Payable by the Contractor to the Territory (from gross revenue) <i>Delete whichever is not applicable</i>	\$	\$

Or (*delete whichever table is not applicable*)

<b>CONTRACT PRICE – per annum, GST inclusive or % of Gross Revenue.</b>		
	<b>Canberra Olympic Pool</b>	<b>Tuggeranong Leisure Centre</b>
Payable by the Territory to the Contractor <i>Delete whichever is not applicable</i>	\$	\$
Payable by the Contractor to the Territory (from gross revenue) <i>Delete whichever is not applicable</i>	%	%

The Tenderer is to submit a proposed schedule for the payment of the Contract Price. The payment schedule will be negotiated with the preferred Tenderer and confirmed in the Contract.

<b>Date Invoices to be Submitted (monthly/fortnightly – whichever is applicable)</b>	<b>Payment Terms (date/number of days – whichever is applicable)</b>	<b>\$ amount of Contract Price</b>

Please provide any other Pricing information you think may be appropriate.

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Canberra Olympic Pool on behalf of Economic Development Directorate

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**ATTACHMENT 3 – DRAFT CONDITIONS OF CONTRACT**

**ATTACHMENT 4 – RFT TERMS OF PRICING AND TERM**

RFT 16106.110 Management and Provision of Aquatic Services for Lakeside Leisure Centre and the Canberra Olympic Pool on behalf of Economic Development Directorate

### ATTACHMENT 5 – TENDERER DECLARATION

I/We tender to the Territory for the Management and Provision of Aquatic Services for Lakeside Leisure Centre and the Canberra Olympic Pool on behalf of Economic Development Directorate at the GST-inclusive prices specified in this Tender.

I/We have provided details of any information I/we wish to be treated as confidential in any resulting Contract, in accordance with Part 11 of the *Standard Conditions of Tender – Services*.

I/We undertake to provide insurance policies if selected as the preferred Tenderer prior to entering into a Contract with the Territory.

I/We have sighted all addenda to this RFT.

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

**ATTACHMENT 6 - STATUTORY DECLARATION**

*Statutory Declarations Act 1959 (Cwlth)*

I, \_\_\_\_\_ (name) of \_\_\_\_\_

\_\_\_\_\_ (address and occupation) make the following

declaration under the *Statutory Declarations Act 1959 (Cwlth)*.

1. The information and details specified in the following 5 pages, titled 'Ethical Suppliers Declaration', are, I believe, correct as of the date of this declaration.
2. I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

\_\_\_\_\_  
*Signature of person making the declaration*

Declared at \_\_\_\_\_ (place)

on \_\_\_\_\_ (day) of \_\_\_\_\_ (month) (year)

Before me,

\_\_\_\_\_  
*Signature of person before whom the declaration is made*

\_\_\_\_\_  
*Full name, qualification and address of person before whom the declaration is made (in printed letters).'*

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

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

*Note 3* 'Note 3 A person before whom a statutory declaration may be made is prescribed under the *Statutory Declarations Regulations 1993 (Cwlth)* as amended from time to time and includes, but is not limited to, a justice of the peace, a legal practitioner or a police officer.'

## **ETHICAL SUPPLIERS DECLARATION**

The Territory may request further details about the information provided by the Tenderer in this Ethical Suppliers Declaration. This Ethical Suppliers Declaration may be sent to the relevant Union (though UnionsACT), ACT Workcover and any other regulatory bodies deemed appropriate for verification of information supplied by the tenderer.

The Territory will not enter into contracts with Tenderers that cannot demonstrate compliance with their Employee and industrial relations obligations. The determination of compliance extends to the obligations in respect of Subcontractors. The Tenderer will be informed if, in the assessment by the Territory, it has failed to satisfactorily demonstrate compliance.

### **Definitions**

In this Declaration.

**Full Details** means details of:

- (a) the nature of the breach or offence or alleged breach or offence;
- (b) any conviction recorded or adverse finding made in respect of the breach or offence;
- (c) any penalty or orders imposed by a court, tribunal, commission or board in respect of the breach or offence and the maximum penalty that could have been imposed under the **Prescribed Legislation**;
- (d) the name of the court, tribunal, commission or board, the State or Territory in which the proceeding or prosecution is brought, the date on which the proceeding or prosecution was commenced and the number or description assigned to the proceeding or prosecution by the court, tribunal, commission or board;
- (e) the name of the entity against which the finding or conviction was made or the proceeding or prosecution was initiated.

**Tendering Entity** means the legal entity (individual or company) that proposes to enter into a contract with the Territory at the end of the tendering process.

**Contract** means a written contract for the procurement of prescribed works or services having a total consideration, or estimated total consideration, worth \$20,000 or more.

**Employee** means a natural person who is employed under a contract of service to provide a supplier of prescribed works or services or a **Subcontractor** with his or her labour, except for the provision of professional or information technology service.

**Employee and industrial relations obligations** means compliance with:

- (a) **Prescribed Legislation**; and
- (b) determinations made by the tribunals of competent jurisdiction in respect of the interpretation, breach or any other matter concerning any **Prescribed Legislation**.

- Note: Examples of employee and industrial relations obligations may typically include payment of remuneration; training; annual holidays; long service leave entitlements; occupational health and safety; workers' compensation; injury management, (including rehabilitation); legal age of employment; discrimination; and superannuation. This list is non exhaustive.

**Prescribed Legislation means:**

awards or industrial agreements made pursuant to any legislation applicable to a supplier or Subcontractor;

*Long Service Leave Act 1976 (ACT);*

*Work Safety Act 2008 (ACT);*

*Long Service Leave (Portable Schemes) Act 2009 (ACT)* and/or, prior to 1 January 2010:

(a) *Long Service Leave (Building and Construction Industry) Act 1981 (ACT);*

(b) *Long Service Leave (Contract Cleaning Industry) Act 1999 (ACT);*

*Workers' Compensation Act 1951 (ACT);*

*Fair Work Act 2009;*

*Workplace Relations Act (1996) (Cwlth); and*

*Superannuation Guarantee (Administration) Act 1992 (Cwlth).*

**Subcontractor** means an entity that is contracted by the **Tendering Entity** to provide services or works in connection with a **Contract** between the Territory and the **Tendering Entity**.

Name of the Tendering Entity in relation to which I make this Declaration:  
[Redacted]

ACN / ABN of the Tendering Entity:  
[Redacted]

If a company, include ACN, and if a partnership or sole proprietor, include the full names of individual members and ABN.

1. The following industrial instrument (award or agreement) made pursuant to any **Prescribed Legislation** specifically applies to the **Employees** and **Subcontractors** of the **Tendering Entity** and is binding on it.

[Redacted]

2. The **Tendering Entity** has in the preceding 24 months of the date of this Declaration complied with all **Prescribed Legislation**.  
YES NO

3. The **Tendering Entity** has in the preceding 24 months of the date of this Declaration recognised the rights of **Employees** and **Subcontractors** to union membership and representation.  
YES NO

4. The **Tendering Entity** has in the preceding 24 months of the date of this Declaration complied with any amendments to wages and conditions of employment for their **Employees** and **Sub-contractors** as decided by any authorised industrial or wage-setting agency.  
YES NO

5. In the preceding 24 months of the date of this Declaration there have been either:

- (a) no findings against the **Tendering Entity**, or a proposed **Subcontractor**, by a court, tribunal, commission or board of a breach of any **Prescribed Legislation**, including a finding of a breach in a non-confidential consent order;

OR

- (b) the following findings against the **Tendering Entity**, or a proposed **Subcontractor**, by a court, tribunal, commission or board of a breach of any **Prescribed Legislation**, including a finding of a breach in a non-confidential consent order [provide **Full Details**].

6. In the preceding 24 months of the date of this Declaration there have been either:

- (c) no convictions under the **Prescribed Legislation** against the **Tendering Entity** or a proposed **Subcontractor**;

OR

- (d) the following convictions under the **Prescribed Legislation** against the **Tendering Entity** or a proposed **Subcontractor** [provide **Full Details**].

7. There are currently no proceedings or prosecutions against the **Tendering Entity** or a proposed **Subcontractor** in respect of a breach of any **Prescribed Legislation** OR the following proceedings and prosecutions are currently brought against the **Tendering Entity** or a proposed **Subcontractor** [provide **Full Details**].

8. The **Tendering Entity** has not been required to implement any remedial measures to ensure future compliance with the **Prescribed Legislation** OR the **Tendering Entity** has implemented the following remedial measures to ensure future compliance with **Prescribed Legislation**.

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# AGREEMENT

Date

\_\_\_\_\_

Parties

AUSTRALIAN CAPITAL TERRITORY

[MANAGER]

**PROVISION OF FACILITY MANAGEMENT  
SERVICES AT LAKESIDE LEISURE CENTRE  
AND CANBERRA OLYMPIC POOL**

Prepared by

ACT Government Solicitor  
Level 5, 12 Moore St  
Canberra City ACT 2600  
Ph: 02 6205 2767  
Fax: 02 6207 0650  
Ref:

Version

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**PARTIES:** **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) represented by Sport and Recreation Services, Economic Development Directorate (**Territory**).

**[Manager]** of [address] (**Contractor**).

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## **BACKGROUND**

The Territory wished to acquire and the Contractor has agreed to provide the Services on the terms and conditions set out in this Contract.

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**IT IS AGREED** by the parties as follows.

### **1.1 INTERPRETATION**

#### **1.1.1 Definition of Terms**

In this Contract, unless the contrary intention appears, the following definitions will apply:

**Advisory Panel** means the panel constituted by and with the duties set out in Attachment 3.

**Asset/s** means any item owned, leased or in the control of the Territory;

**Sport and Recreation Service** or **SRS** means an administrative unit of the Economic Development Directorate responsible for the management of Canberra's aquatic facilities;

**CERM** means the Centre for Environmental and Recreation Management, University of South Australia;

**Director General** means the Director General of the administrative unit responsible for administering this Contract on behalf of the Territory;

**Commencement Date** means the date the Services are to commence as specified in Item 2 Schedule 1;

**Confidential Text** means any text of this Contract that is specified in Item 7 Schedule 1;

**Contract** means this Contract between the Territory and the Contractor;

**Contract Manager** means any person authorised to act on behalf of the Territory to supervise the performance of the Contract;

**Contract Material** means all material created, written or otherwise brought into existence as part of, or for the purpose of performing the Services including all reports (whether in draft or final form), documents, equipment, information and data stored by any means, including the Yearly Service Plan and any other plans provided under this Contract and any promotional material, including any internet site, produced under those plans and all membership information and related financial records, but does not include (except to the extent that it is specifically referred to in this definition) material that the Contractor produces for the performance of services that are generally applicable to the operation of the Contractor's business and not particular to this Contract, including operational manuals, occupational health and safety manuals and quality control system manuals;

**Contract Officers** means in relation to each party, the representatives whose names and contact details are specified in Item 1 Schedule 1, or as notified in writing from time to time by one party to the other.

**Contract Price** means the price which is stated in, or calculated in accordance with, Item 3 Schedule 1 of the Contract to be payable by the Territory to the Contractor for the satisfactory performance of the Services and the performance of its obligations under the Contract;

**COP** means the Canberra Olympic Pool facilities, owned by the Territory and located at Allara Street Canberra City;

**CSQ Gap** means the variation between customer expectations and the actual service delivery rating as determined in the Annual Customer Satisfaction Questionnaire Survey;

**Customer Service** means the provision of polite, positive and professional services to all Customers;

**Employee** means any person employed by the Contractor to perform the Services;

**End Date** means the date the Services end as specified in Item 2 Schedule 1;

**Force Majeure** means an event or effect that cannot be reasonably be anticipated or controlled including strikes, outbreaks of war, acts of God, fire, storm, flood, riot and civil commotion;

**LLC** means the Lakeside Leisure Centre facilities, owned by the Territory and located at Anketell Street Greenway;

**Month** means a calendar month;

**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 a natural person whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Requirements** means the Statement of Requirements in Schedule 2 of this Contract.

**Services** means the services described in the Requirements;

**Site** means the land, buildings, structures and/or improvements comprising COP and LLC;

**Tax invoice** means a document that complies with the requirements of subsection 29-70(1) and (if applicable) section 54-50 of the GST Act;

**Territory** means

- (1) when used in a geographical sense, the Australian Capital Territory; and
- (2) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) and includes its employees, agents and subcontractors.

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**Territory Information** means the kind of information that:

- (1) is or relates to documents, submissions, consultations, policies, strategies, practices and procedures of the Territory which are by their nature confidential; is notified (whether in writing or not) by the Territory to the Contractor as being confidential;
- (3) is specified in Item 6 Schedule 1; or
- (4) is Personal Information,

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but does not include information that:

- (5) is or becomes public knowledge other than by breach of this Contract;
- (6) has been independently developed or acquired by the Contractor; or
- (7) has been notified in writing by the Territory to the Contractor as not being confidential

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**Territory Material** means any material provided by the Territory to the Contractor for the purposes of this Contract including documents, equipment, information and data stored by any means.

**Yearly Service Plan** means the annual plan prepared by the Contractor pursuant to the Requirements.

### 1.1.2 General

In this Contract, unless the context otherwise require:

- a) references to "Contractor" includes any employees, agents or subcontractors of the Contractor;
- b) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations and instruments issued under the legislation;
- c) words importing a gender include the others; words in the singular number include the plural and vice versa and where a word or phrase is given a particular

meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

- d) "include" is not to be construed as a word of limitation;
- e) clause headings are for convenient reference only and have no effect on the interpretation of the provisions to which they refer; and
- f) an obligation imposed by this Contract on more than one person binds them jointly and severally.

## **1.2 TERM OF CONTRACT**

- 1.2.1 The Contractor must commence the Services on the Commencement Date and thereafter perform the Services during the term of the Contract to the standards required by the Contract.
- 1.2.2 The term of the Contract will commence on the Commencement Date and end on the End Date subject to the further provisions of this Contract.
- 1.2.3 The Territory may in its absolute discretion determine to close the COP at any time upon giving the manager 60 days written notice. In this event:
  - a) any reference in this Contract to the management of the COP will be excluded; and
  - b) the Contract is to be read and interpreted as though the Contract had only ever been in respect of the management of the LLC, except for any claims, rights or responsibilities in relation to the management of COP that relate to the period prior to the date of effect of the notice.
- 1.2.4 At least 6 months, but no less than 3 months prior to the 3<sup>rd</sup> anniversary of this Contract, the Territory may give notice to the Contractor of termination of the Contract with effect on and from the 3<sup>rd</sup> anniversary of this Contract.
- 1.2.5 At least 6 months, but no less than 3 months prior to the 4<sup>th</sup> anniversary of this Contract, the Territory may give notice to the Contractor of termination of the Contract with effect on and from the 4<sup>th</sup> anniversary of this Contract.

## **1.3 LICENCE FOR SITES**

- 1.3.1 The Contractor may occupy the Sites for the purpose of undertaking its obligations under this Contract.
- 1.3.2 Nothing in this Contract will or is to be construed as creating an estate or interest in the Sites or the land on which the Sites are located in favour of the Contractor and the Territory has full access to any part of the Sites upon giving reasonable notice to the Contractor.

#### 1.4 AMENDMENT TO THE REQUIREMENTS

- 1.4.1 The Territory may at any time issue amended Requirements in writing to the Contractor.
- 1.4.2 Where any amendment to the Requirements involves, in the reasonable opinion of the Territory, an alteration in the cost of the Services, the Contract Price may be varied by agreement in writing between the parties.

#### 1.5 REDEVELOPMENT OF CANBERRA OLYMPIC POOL

- 1.5.1 It is anticipated that COP may undergo a major redevelopment during the term of this contract and in this event the Territory will issue the Contractor the notice required under clause 1.2.3.
- 1.5.2 The Territory may invite proposals from the Contractor in relation to the relocation and ongoing operation of relevant parts of the COP business operations and if so, will consider those proposals on terms it sees fit.

#### 1.6 CONTRACT PRICE

- 1.6.1 The contract price is as stated in Item 3 Schedule 1.

#### 1.7 INDEMNITY AND INSURANCE

- 1.7.1 The Contractor indemnifies the Territory, its employees and agents against any liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property caused by the Contractor, its employees, agents or contractors in connection with the provision of the Services, except to the extent that the Territory caused the relevant loss, damage or injury.
- 1.7.2 The Contractor must take out and maintain, with an insurance company approved by the Territory, insurance of the following kinds:
- a) Workers' Compensation insurance to the extent required by any law of the Commonwealth or Territory;
  - b) Professional Indemnity Insurance in the amount of \$10,000,000.00 in respect of each claim and in the annual aggregate;
  - c) If the Contractor carries out the Services under the Contract in person, personal injury insurance covering the Contractor against injury or death suffered while carrying out the Services under the Contract;
  - d) Public Liability insurance in the name of the Contractor (and noting the interest of the Territory) for their respective rights and interests to a value of twenty million dollars (\$20,000,000.00) in respect of each claim.

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- e) Comprehensive insurance for all motor vehicles and other plant that will be used in the performance of the Contract.

1.7.3 The Contractor must provide to the Territory, within seven (7) days of each annual renewal, Certificates of Currency or such other evidence of the currency of the insurance referred to in this clause.

## **1.8 SECURITY FOR DUE PERFORMANCE**

1.8.1 The Contractor must lodge with the Territory, fourteen (14) days prior to the Commencement Date, the sum of fifty thousand dollars (\$50,000) as security for the due performance of the Contract.

1.8.2 A security under this clause must be an unconditional bank undertaking in a form acceptable to the Territory, cash or bank cheque.

1.8.3 The security will be repaid or returned to the Contractor upon expiry or termination of the Contract subject to any amounts deducted as owing to the Territory.

1.8.4 The Territory will not be liable for any loss to the Contractor resulting from the decreasing value of, or any loss of interest on, any security.

## **1.9 PAYMENT**

1.9.1 An invoice for payment will be taken to be correctly rendered if:

- a) it is a Tax invoice;
- b) the amount claimed in the account is due for payment;
- c) the account is correctly calculated and sets out any details required by this Contract; and
- d) the account is addressed to the Contract Officers or such other officer notified by the parties to receive accounts for payment.

1.9.2 Payments to the Contractor may be made by the Territory by electronic funds transfer or by cheque. It will be the Contractor's responsibility to provide all banking details required for electronic funds transfer. Where payment of an invoice is to be made by cheque, the payment will be deemed to be made on the date on which the cheque is drawn by the Territory.

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

1.9.4 The Territory is entitled, without derogating from any other right it may have, to defer any payment until the Contractor has completed the Services to the satisfaction of the Territory.

**1.10 STATEMENTS TO BE TRUE AND CORRECT**

- 1.10.1 The Contractor warrants that all statements made to the Territory are true and correct in every material particular and are not misleading or deceptive.
- 1.10.2 This clause applies to all statements made by the Contractor, whether before or after the formation of the Contract, which relate to the Services, the Contract or the performance of the Contractor's obligations thereunder.

**1.11 CONTRACT MANAGER AND ADVISORY PANEL**

- 1.11.1 The Contractor must comply, and is to ensure that any subcontractor complies, with all reasonable directions by the Contract Manager in carrying out the Contract.
- 1.11.2 The Contractor must liaise with the Advisory Panel, as described in Attachment 3.

**1.12 ENTIRE CONTRACT**

- 1.12.1 This Contract comprises the entire contract between the parties in relation to the Services and supersedes any prior representations, negotiations, writings, memoranda and agreements.

**1.13 QUALITY ASSURANCE, STANDARDS AND SYSTEMS**

- 1.13.1 The Contractor must ensure it maintains its quality assurance certification, if applicable, during the term of the Contract. ISO 9000 is not a prerequisite but the Contractor will need to display evidence of a system that meets ISO 9000 or any replacement or update of ISO 9000 (i.e. a procedural manual that can be mapped against ISO 9000).
- 1.13.2 All Services delivered must conform to the Requirements and standards specified in the Contract and the Yearly Service Plan and any plans under it which the Territory has approved.
- 1.13.3 Where no standards are specified in the Contract, the Services will comply with the appropriate and current standard of the Standards Association of Australia and if there is no such standard, then with the appropriate and current standard of the International Standards Organisation.
- 1.13.4 If no standards are specified, the Services supplied must be to a high professional standard, suitable for their purpose as stated in the Contract and fully capable of their intended use.
- 1.13.5 The Contractor will fully implement and perform the Monitoring and Review Program as described in the Requirements.

#### **1.14 SCREENING OF CONTRACTOR AND EMPLOYEES**

- 1.14.1 The Contractor, if requested to do so, must submit to the Territory the personal particulars and two copies of an identification photograph of any employee engaged by the Contractor to undertake the Services within seven (7) days of such a request.
- 1.14.2 When requested to do so by the Territory in writing, the Contractor and its employees must provide all information and do any other act or thing for the purpose of assessing the suitability and fitness of that person to provide the Services, including a completed request for a police background/history check.
- 1.14.3 The Territory may, in its absolute discretion, by notice in writing to the Contractor request that an Employee cease or otherwise not be permitted to work on the Sites.
- 1.14.4 Where the Territory issues a notice under clause 1.14.3 and the Territory has a reasonable basis for forming its opinion to issue the notice, the Contractor may not make any claim for loss or compensation as a result of the Territory issuing the notice.

#### **1.15 CONTINUITY OF EMPLOYMENT**

- 1.15.1 The contractor is to offer to all existing staff, up to the level of Operations Manager, the opportunity to participate in an initial recruitment process. The initial recruitment process will be used to staff the facilities after 1 July 2012.

#### **1.16 COMPLIANCE WITH EMPLOYEE AND INDUSTRIAL RELATIONS OBLIGATIONS**

- 1.16.1 In this clause:

“Adverse Ruling” means a ruling by any court, tribunal, board or commission with jurisdiction to determine employee and industrial relations matters to the effect that the Contractor breached its employee and industrial relations obligations;

“employee” means a natural person who is employed by the Contractor or the Contractor’s subcontractor to provide his or her labour, except for the provision of professional or information technology services;

“employee and industrial relations” has the same meaning as that term is given in clause 13 of the *Government Procurement (Principles) Guideline 2002*; and

“prescribed works or services” means those works or services that will require the exertion of labour by employees in the performance of the Contract; and

“subcontractor” means a subcontractor engaged by the Contractor.

- 1.16.2 Without limiting the provisions of this Contract, the following conditions apply to the Contractor to the extent that the Contract requires the performance of prescribed works or services:

- (a) every employee must be paid wages at rates and employed under conditions of employment not less favourable than those required by any law or certified agreement applicable to the Contractor or subcontractor;
- (b) the Territory may periodically and following reasonable notice, require the Contractor to give the Territory a statutory declaration by the Contractor, or, if the Contractor is a corporation, by a director of the Contractor, that:
  - (i) all employees have been paid in full all amounts payable to them and all entitlements due to them, whether by the Contractor or a subcontractor, in the performance of the Contract,
  - (ii) all subcontractors have been paid all monies payable to them by the Contractor in respect of works or services performed under the Contract, and
  - (iii) if within 5 business days after the request the Contractor fails to provide the statutory declaration, the Territory may withhold payment of monies due to the Contractor until the statutory declaration is received;
- (c) all employees, who are eligible, have been paid their correct superannuation entitlements;
- (d) the Contractor must keep, and must require its subcontractors for the Contract to keep, proper records and documents showing the wages paid to and, so far as practicable, the time worked by employees;
- (e) the Contractor must at all reasonable times allow, and must require its subcontractors for the Contract to allow, any properly authorised officer of the Territory:
  - (i) to enter upon the site where works or services are performed for the Contract, to inspect the conditions in which the employees are employed to perform the prescribed works or services, and
  - (ii) to enter upon the office premises of the Contractor or subcontractor, to inspect its wages books and time sheets, and also if such authorised officer thinks fit, to interview any employees as to their rate of wages, hours and conditions of employment, and to otherwise verify the compliance by the Contractor and a subcontractor with their employee and industrial relations obligations.

### **Obligation to disclose during the term of the Contract**

1.16.3 The Contractor must, on request by the Territory and within the time period required by the Territory in writing (which must not be less than 30 days) provide an up-to-date statement setting out full details of:

- (a) any adverse finding against the Contractor or a subcontractor by a court, tribunal, commission or board in respect of a breach of any law applicable to the Contractor or a subcontractor;
- (b) any conviction by a court, tribunal, commission or board of an offence committed by the Contractor under any law applicable to the Contractor or a subcontractor;
- (c) any proceeding or prosecution against the Contractor in respect of a breach of an employment or industrial relations obligation applicable to the Contractor or a subcontractor which has not previously been disclosed to the Territory; and
- (d) remedial measures implemented to ensure future compliance with employment and industrial relations laws applicable to the Contractor or a subcontractor.

### **Termination for Failure to Comply with Employment and Industrial Relations Obligations**

1.16.4 If at any time during the term of the Contract, an Adverse Ruling is made, the Contractor must within 14 days of the Ruling, or such longer period agreed by the Territory, provide a statutory declaration from a director of the Contractor setting out:

- (a) any additional information which in the opinion of the Contractor is relevant to the Adverse Ruling, including the Contractor's grounds for any objection to the Adverse Ruling being relied upon as a ground for termination of this Contract;
- (b) details of any information on which the Adverse Ruling is based which in the opinion of the Contractor is incorrect, incomplete or otherwise unfairly prejudicial to the Contractor for purposes of its dealings with the Territory under this Contract;
- (c) any existing or planned remedial measures which the Contractor has taken or will be taking to prevent a breach or offence similar to the breach or offence on which the Adverse Ruling is based from recurring.

1.16.5 Following the receipt of the statutory declaration or expiration of the period specified in clause 1.18.4, whichever comes first, the Territory may, in its discretion, do one or more of the following:

- (a) request the Contractor to show cause as to why this Contract should not be

suspended or terminated with effect from 14 days from the show cause notice;

- (b) suspend the operation of this Contractor for a specified period of up to 6 months with effect from 14 days of notice to suspend; and/or
- (c) terminate this Contract with 14 days notice.

1.16.6 In exercising its discretion under clause 1.16.5, the Territory will take into consideration:

- (a) whether the Contractor has taken or will take measures which, in the reasonable opinion of the Territory, are commensurate with the breach or the offence on which the Adverse Ruling is based and can be reasonably expected to prevent such breach or offence from recurring; or
- (b) whether the Territory is otherwise satisfied that the Contractor has shown good cause why the Contract should not be suspended or terminated.

1.16.7 The remedies under this clause are in addition to and do not limit any other rights or remedies of the State under this document or otherwise at law.

#### **1.17 COMMUNICATION**

1.17.1 The Contractor is required to provide contact details of a Contract Representative (i.e. Regional Manager) as well as maintain a telephone facility while ever the facilities are open to the public. Outside of these hours an emergency contact telephone number is to be provided to the Contract Manager. A telephone answering machine does not satisfy this requirement. The Contractor is to provide details for an alternative contact for when a facility Manager is on leave.

#### **1.18 CONTRACTOR TO PROVIDE INFORMATION**

1.18.1 The Contractor must provide such information concerning the conduct of the Contract as the Territory may request from time to time, within fourteen (14) days of receiving such request in writing.

1.18.2 If at the time the Contractor becomes aware that the Contractor will be unable to comply with its obligations under the Contract, the Contractor must immediately give notice in writing to the Territory specifying the details of and the reasons for that inability to comply.

1.18.3 In the case of an emergency where emergency services need to be contacted or there is likely to be media attention, the Contractor must contact the Contract Manager immediately. For important/serious issues the Contract Manager must be contacted within 24 hours.

## **1.19 OWNERSHIP AND USE OF MATERIAL**

### **1.19.1 Ownership of Contract Material**

1.19.1.1 Ownership of all Contract Material, including any intellectual property rights, vests on its creation in the Territory.

### **1.19.2 Use of Contract Material**

1.19.2.1. The Contractor must ensure that:

- a) the Contract Material is used only for the purpose of this Contract;
- b) the use of any Contract Material will not infringe the intellectual property rights of any third party; and
- c) no fees, royalties or other payments are payable in respect of any third party rights as a result of the Territory's (or any permitted user's) use of any Contract Material.

### **1.19.3 Moral rights**

1.19.3.1. The Contractor must:

- a) use its best endeavours to include in the Contract Material an attribution of all authors of any work that comprises or forms part of the Contract Material; and
- b) procure from all authors of any work that comprises or forms part of the Contract Material, their genuine written consent for the Territory to:
  - a) attribute the authorship of the work to the Territory,
  - b) not attribute the authorship of the author when using the work (including exhibiting or performing the work in, or to the, public), and
  - c) materially alter the work in any way.

### **1.19.4 Territory material**

1.19.4.1. Territory Material will remain the property of the Territory and the Contractor must only use that material for the purpose of providing the Services or otherwise in accordance with any conditions notified to it by the Territory.

### **1.19.5 Contractor's material**

### **1.19.6 Safekeeping and preservation of material**

1.19.6.1. The Contractor must ensure the safe keeping and proper preservation of Contract Material and Territory Material in its possession or control.

### **1.19.7 Delivery of material to Territory**

1.19.7.1. On the expiration or earlier termination of this Contract, the Contractor must deliver to the Territory all Contract Material and Territory Material (other than copies of material that the Territory has authorised the Contractor to retain).

#### **1.19.8 Meaning of "use"**

1.19.8.1 For the purpose of clause 1.19, "use" includes supply, reproduce, publish, perform, communicate, broadcast, adapt and copy.

### **1.20 NON-DISCLOSURE OF TERRITORY INFORMATION**

#### **1.20.1 Contractor must not disclose Territory Information**

1.20.1.1. Except as provided in this Contract, the Contractor must not disclose Territory Information to any person without the prior written consent of the Territory except to the extent that the Territory Information is:

- a) required or authorised to be disclosed by law;
- b) disclosed to the Contractor's solicitors, auditors, insurers or advisers;
- c) generally available to the public; or
- d) in the possession of the Contractor without restriction in relation to disclosure before the date of receipt from the Territory.

#### **1.20.2 Contractor to protect Territory Information**

1.20.2.1. The Contractor must take all reasonable measures to ensure that:

- a) Territory Information accessed or held by it in connection with this Contract is protected against loss, unauthorised access, use, modification, disclosure or other misuse in accordance with reasonable procedures for that purpose; and
- b) only authorised personnel have access to Territory Information.

#### **1.20.3 Contractor's use of Territory Information**

1.20.3.1. The Contractor must:

- a) use Territory Information held in connection with this Contract only for the purposes of fulfilling its obligations under this Contract;
- b) comply with the "Information Privacy Principles" set out in the *Privacy Act 1988* (Cwlth) as if they were provisions of this Contract;
- c) not transfer Territory Information held in connection with this Contract outside the Territory, or allow any person (other than authorised personnel) outside the Territory to have access to it, without the prior approval of the Territory; and

- d) without limiting clause 1.7.1, indemnify the Territory against any successful claim or proceeding made against the Territory resulting from the Contractor's breach of its obligations under this clause 1.20.

#### **1.20.4 Contractor must notify the Territory**

1.20.4.1. The Contractor must immediately notify the Territory if the Contractor becomes aware that:

- a) a disclosure of Territory Information may be required by law; or
- b) an unauthorised disclosure of Territory Information has occurred.

### **1.21 NON-DISCLOSURE OF CONFIDENTIAL TEXT**

#### **1.21.1 Territory may make Contract publicly available**

1.20.1.1. In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential. In accordance with those principles, this Contract may be a notifiable contract under the *Government Procurement Act 2001* and, if so, the Territory will be required to make the text of this Contract available to the public, including by publication on a public contracts register.

#### **1.21.2 Confidential Text**

1.21.2.1. Clause 1.24.3 will apply if Confidential Text is specified in Item 7 Schedule 1. If the Contract is a notifiable contract under the *Government Procurement Act 2001*, the grounds on which the text is confidential are set out in Item 8 Schedule 1.

#### **1.21.3 Territory must not disclose Confidential Text**

1.21.3.1. Except as provided in this Contract, the Territory must not disclose Confidential Text to any person except to the extent that Confidential Text:

- a) is text that the Contractor has requested to be kept confidential and the Contractor has given its prior written consent to the disclosure (which consent will not be unreasonably withheld);
- b) is required or authorised to be disclosed under law;
- c) is reasonably necessary for the enforcement of the criminal law;
- d) is disclosed to the Territory's solicitors, auditors, insurers or advisers;
- e) is generally available to the public;
- f) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from the Contractor;

- g) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
- h) is disclosed to the ombudsman or for a purpose in relation to the protection of the public revenue.

## **1.22 DAMAGE TO PROPERTY**

- 1.22.1 The Contractor will be liable for loss or damage to any Territory property (including but not limited to the Site and any fixtures thereupon) caused by the Contractor, its employees or any subcontractor in the performance of the Contract.
- 1.22.2 The Contractor must report, in writing to the Contract Manager, all damage to the Site (including fixtures) and to any property of the Territory that is on or at the Site, within twenty-four (24) hours of discovery of that damage by the Contractor or any Employee.
- 1.22.3 If the Contractor fails to report any damage in accordance with this clause the Contractor will be liable to the Territory in respect of that damage as if that damage had been caused by the Contractor.

## **1.23 CONTRACTORS LABOUR AND EQUIPMENT**

- 1.23.1 The Contractor must, at its own expense, provide and maintain sufficient labour and materials, plant, tools and equipment as are necessary for the performance of the Contract.
- 1.23.2 The Contractor must:
  - (1) ensure the Services are performed by persons who are fit and suitable to perform the Services; and
  - (2) comply with all reasonable requirements notified by the Territory regarding the suitability and fitness of persons engaged by the Contractor for the performance of the Services.

### **1.23.3 Specified Personnel**

The Contractor must:

- (1) ensure that the Services are performed by Specified Personnel (if any).
- (2) if Specified Personnel are unable to perform any of the Services, provide replacement personnel acceptable to the Territory at no additional charge and at the earliest opportunity.

## **1.24 OCCUPATIONAL HEALTH AND SAFETY**

- 1.24.1 The Services must be of such quality and condition that their reasonable use by the Territory will not result in unreasonable danger to any person or in any breach of the

Territory's obligations under the *Work Safety Act 2008 (ACT)*, the *Occupational Health and Safety (Commonwealth Employees) Act 1991 (Cwlth)* or any other obligation in law relating to health and safety.

1.24.2 The Contractor must comply with the *Work Safety Act 2008 (ACT)*, associated legislation, regulations, codes of practice and any other obligation in law relating to health and safety.

1.24.3 The Contractor must acquire material safety data sheets for hazardous substances to the standard required by the National Occupational Health and Safety Commission (Worksafe Australia) and make them available to the Contract Manager on request.

### **1.25 SAFETY PRECAUTIONS**

1.25.1 The Contractor must not create or leave unattended any potential hazards on the Sites. Existing hazards must be immediately reported to the Contract Manager.

1.25.2 All accidents are to be reported to the Contract Manager during the next working day.

### **1.26 NEEDLES AND SYRINGES**

1.26.1 The Contractor must ensure that all employees are aware of the danger of needles and syringes. The Contractor must train appropriate employees in the correct procedures of the handling and disposal of needles and syringes.

### **1.27 ASSIGNMENT**

1.27.1 The Contractor must not transfer or assign the Contract or any part, share or interest in this Contract, or subcontract the Contract or part thereof to any person without the prior approval in writing of the Territory.

1.27.2 Any change of ownership or control of the Contractor will be deemed to be an assignment of the Contract for the purposes of this clause.

### **1.28 SUB-CONTRACTS**

1.28.1 Work under the Contract must not be sub-contracted without prior approval in writing of the Territory. Notwithstanding any such approval, the Contractor will be liable to the Territory for the acts, defaults and neglects of any sub-contractor or any employee or agent of the sub-contractor as fully as if they were the acts, defaults or neglects of the Contractor or the employees or agents of the Contractor.

### **1.29 CONFLICT OF INTEREST**

1.29.1 The Contractor:

- a) warrants that, at the date of entering into this Contract, no conflict of interest exists or is likely to arise in the performance of the Services and of its other obligations under this Contract; and

- b) must, if a conflict, or risk of conflict, of interest arises during the Term:
  - a) notify the Territory immediately in writing of that conflict or risk, and
  - b) comply with any requirement of the Territory to eliminate or otherwise deal with that conflict or risk.

### **1.30 NO EMPLOYMENT, PARTNERSHIP OR AGENCY RELATIONSHIP**

- 1.30.1 Nothing in this Contract constitutes the Contractor, or its employees, agents or subcontractors as employees, partners or agents of the Territory or creates any employment, partnership or agency for any purpose.
- 1.30.2 The Contractor must not represent itself, and must ensure its employees, agents and subcontractors do not represent themselves, as being employees, partners or agents of the Territory.
- 1.30.3 Notwithstanding the previous provisions of this clause 1.30, the Contractor must display prominently in the reception area of each Site signage which indicates: "This facility is managed by [insert name of the Contractor] under a facilities management agreement with the Australian Capital Territory".

### **1.31 DEFAULT**

#### **1.31.1 If the Contractor:**

- a) refuses or neglects to comply with any reasonable and/or proper instruction under this Contract; or
- b) fails to commence or perform the Services under the Contract within such time as stated in the Contract, or such other time considered to be reasonable by the Territory; or
- c) commits any breach of the Contract, including failing to provide all the Services or failing to obtain the Territory's consent where that consent is required; or
- d) fails to lodge or maintain the security required under clause 1.8 by the time it is due; or
- e) fails to carry out the Contract at a rate of progress satisfactory to the Contract Manager; or
- f) fails to fully implement the approved Yearly Service Plan in accordance with its terms; or
- g) engages anyone in connection with the Services in breach of clause 1.16 or section 1.3 of the Requirements; or
- h) produces Services that are generally sub-standard, non-tradesperson-like and do not comply with the Requirements; or

- i) at any time indicates inability or unwillingness to complete the Contract in accordance with the Contract; or
- j) becomes insolvent or bankrupt or, being a company, goes into liquidation or receivership or under a scheme of management; or
- k) assigns the whole or any part of the Contract without written approval by the Territory.

1.31.2 The Territory may, without prejudice to any other rights that may be held under the Contract:

- a) call upon the Contractor to show cause why the Contract should not be terminated; and/or
- b) by notice in writing given to the Contractor, terminate the Contract, giving fourteen (14) days notice of termination; and/or
- c) deduct from the Contractor's security under the Contract any debt due from the Contractor to the Territory; and/or
- d) take over the whole or any part of the Contract remaining to be performed; and/or
- e) take possession of all materials, fittings and equipment on Site; and/or
- f) exclude from the Site the Contractor or any other person concerned in the performance of the Contract; and/or
- g) have the work carried out by others and all expenses incurred for the work carried out by others will be recoverable from the Contractor; and/or
- h) suspend any further payment under the Contract to the Contractor; and/or
- i) set off against any amount owed by the Territory to the Contractor.

1.31.3 In addition, the Contractor will be liable for any damages, losses and expenses the Territory may sustain or incur in consequence of any such failure, act or attempt of the Contractor or in consequence of the cancellation of the Contract or any part thereof as aforesaid, and such damages, losses and expenses will be recoverable under the Contract.

~~1.31.2~~ 1.31.4 The exercise by the Territory of any power conferred by this clause in respect of any failure, act or attempt of the Contractor will not compel the Territory to exercise the same power in respect of any subsequent similar failure, act or attempt of the Contractor, but in respect of any such subsequent similar failure, act or attempt, the Territory may, if it thinks fit, exercise any or all of the powers conferred by this clause.

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### **1.32 DAMAGES RECOVERABLE**

- 1.32.1 Where moneys to be deducted from amounts that are due or become due to the Contractor, are not sufficient to cover the damages, losses, costs and expenses incurred by the Territory under the Contract, the balance remaining unpaid will be a debt due by the Contractor to the Territory, and may be offset against any other moneys which may be or become due to the Contractor by the Territory or may be recovered from the Contractor in any Court of competent jurisdiction.
- 1.32.2 A notice given for and on behalf of the Territory stating the amount of any damages, losses, costs and expenses sustained or incurred by the Territory in consequence of any breach of Contract or other event stated in clause 1.31 of the Contract will be conclusive evidence of the matter stated.

### **1.33 COMPLIANCE WITH LAWS**

- 1.33.1 The Contractor must, in carrying out the Contract, comply with the provisions of all laws, and the requirements of any Commonwealth, State, Territory or local authority.

### **1.34 APPLICABLE LAW**

- 1.34.1 The Contract will be governed by and construed in accordance with the laws in force from time to time in the Australian Capital Territory and the parties agree to submit to the jurisdiction of the courts of the Territory.

### **1.35 SEVERABILITY**

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

### **1.36 FORCE MAJEURE**

- 1.36.1 Neither party will be liable for any delay or failure to perform its obligations pursuant to the Contract to the extent and for the time that delay or failure is caused by Force Majeure.
- 1.36.2 If any delay or failure of a party to perform its obligations is caused or anticipated by Force Majeure, the performance of that party's obligations will be suspended to the extent and for the time necessitated by the Force Majeure.
- 1.36.3 A party must as soon as possible after the occurrence of Force Majeure, which causes that party to delay the performance of, or fail to perform, its obligations pursuant to the contract, give notice and full particulars of it to the other party.
- 1.36.4 If a delay or failure of a party ("affected party") to perform its obligations because of Force Majeure exceeds 60 days, the other party may terminate this Contract by

providing written notice to the affected party. If the Contract is terminated in these circumstances, each party will bear its own costs.

### 1.37 SETTLEMENT OF DISPUTES

- 1.37.1 If a difference or dispute ("Dispute") arises in relation to this Contract or the Services, then either party may give written notice to the other that a Dispute exists and giving details of the Dispute. The parties agree that, following the issue of such a notice, they will endeavour to resolve the Dispute by negotiations, including by referring the Dispute to persons who have authority to intervene and direct some form of resolution.
- 1.37.2 If the Dispute has not been resolved under clause 1.39.1 within twenty-eight (28) days of the notice of the Dispute, then the parties agree that they will undertake a mediation process. The mediator will be an independent mediator agreed by the parties or, failing agreement, nominated by the chairperson of the Institute of Arbitrators and Mediators Australia, ACT Chapter. Unless otherwise agreed, the parties will share the costs of the engagement of the mediator.
- 1.37.3 Nothing in this clause will prejudice the rights of either party to institute proceedings to enforce the Contract or to seek injunctive or urgent declaratory relief in respect of any Dispute.
- 1.37.4 This clause will survive the expiration or termination of the Contract.

### 1.38 VARIATION OR WAIVER

- 1.38.1 The Contract and any term thereof will not be varied, waived, discharged or released except by writing signed by the Director General or an officer authorised by the Director General for that purpose.
- 1.38.2 Failure or omission by the Territory at any time to enforce or require strict timely compliance with any provision of this Contract will not affect or impair that provision in any way or the rights of the Territory to avail itself of remedies it may have in respect of any breach of any such provision.

### 1.39 SERVICE OF NOTICES

1.39.1 Any notice, or other communication, required or otherwise to be given or sent to either party under this Contract must be in writing and will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two days after the date on which it was sent;
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's

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address; or

- (4) if sent by electronic mail, upon the sender's computer recording that the message has been successfully transmitted to the intended recipient's electronic mail address;

to the persons and addresses or facsimile numbers set out in Item 1 Schedule 1 or such other person, address or facsimile number as may be notified by a party to the other from time to time.

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## SCHEDULE 1

### CONTRACT DETAILS

**Item 1. Contract Officers**

*See clauses 1.1.1*

**For the Territory:**

Shane O'Leary  
Director  
Sport and Recreation Services  
Economic Development Directorate  
Level 8 Macarthur House  
12 Wattle Street  
Lyneham ACT 2602

Ph: (02) 6207 2070  
Fax: (02) 6207 2071  
Email: shane.oleary@act.gov.au

**For the Contractor:**

**Item 2. Term**

*See clause 1.2*

Commencement Date: 1 July 2012  
End Date: 30 June 2017.

**Item 3. Contract Price**

*See clause 1.6*

[TBC]

**Item 4. Specified Personnel**

*See clause 1.23*

Not used

**Item 5. Other amounts and insurance**

*See clause 1.7*

Not used

**Item 6. Territory Information**

*See clauses 1.20*

Not used

**Item 7. Confidential Text**

*See clauses 1.21*

Not used

**Item 8. Grounds for confidentiality of Confidential Text**

*See clause 1.21*

Not used

**SCHEDULE 2 – STATEMENT OF REQUIREMENTS**

DATE OF THIS CONTRACT ..... 2012

**SIGNED** for and on behalf of the  
**AUSTRALIAN CAPITAL TERRITORY**  
in the presence of:

)  
)  
) .....  
) Signature of Territory Delegate

.....  
Signature of Witness

)  
) .....  
) Print Name

.....  
Print name

**SIGNED** for and on behalf of  
**[manager]**  
in the presence of:

)  
)  
)  
) .....  
) Signature of Contractor or authorised  
officer\*  
) \*delete whichever is not applicable (see note below)

.....  
Signature of Witness

)  
) .....  
) Print name and position

.....  
Print name

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

**IMPORTANT NOTICE**

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**ADDENDUM 4 TO REQUEST FOR TENDER NO. 16106.110  
MANAGEMENT AND PROVISION OF AQUATIC SERVICES FOR LAKESIDE  
LEISURE CENTRE AND THE CANBERRA OLYMPIC POOL**

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Please note the following additional information for the above Request for Tender (RFT):

1. Questions received from interested suppliers, and the Territory's formal responses to those questions are specified at Attachment 1 to this addendum notice.

For further information, please contact me, as the contact officer who is also named on the cover page of this RFT.

Shauna Oakley  
Procurement Officer  
Shared Services Procurement  
[procurementthree@act.gov.au](mailto:procurementthree@act.gov.au)  
Ph: (02) 6205 9998

04 January 2012

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**SHARED SERVICES PROCUREMENT**

ABN 66 676 633 401

Telephone (02) 6207 5542 • Fax (02) 6207 5468

PO Box 818 Dickson ACT 2602

Levels 1 & 3 North Building, Dame Pattie Menzies House, 16 Challis St Dickson ACT 2602

**ADDENDUM 4 TO REQUEST FOR TENDER NO. 16106.110**

**MANAGEMENT AND PROVISION OF AQUATIC SERVICES FOR LAKESIDE  
LEISURE CENTRE AND THE CANBERRA OLYMPIC POOL**

**Questions and Formal Responses**

- Q1** Could we get clarification of what leases will become the responsibility of the Contractor? These will include leases where the Contractor is either Lessor or Lessee e.g. Health Suites or where the Contractor acts as an agent for the Territory e.g. lease of Health Club equipment.
- A1** Leases that will become the responsibility of the Contractor are the two (2) gym equipment leases at Canberra Olympic Pool (COP) and Lakeside Leisure Centre (LLC). The gym equipment at COP is a 48 month lease which commenced in December 2011 with a lease payment of \$2,424.70 (excl. GST) per month. The gym equipment for LLC is a 60 month lease which commenced in November 2010 with a lease payment of \$2,672.69 (excl. GST) per month.  
All other existing leases at both COP and LLC expire on 30 June 2012 with the current management Contract.
- Q2** Could we get a complete list of Memorandum of Understanding or similar commitments that will be the responsibility of the Contractor to deliver on, e.g. Volleyball Club, Swimming Clubs etc?
- A2** All existing Memorandum of Understanding expire on 30 June 2012 with the current management Contract.
- Q3** Could we get confirmation that the lifeguard patron ratios in both Centres must be 1:50 if this has changed from the current operating expectations?
- A3** Yes, lifeguard to patron ratios in both centres must be a minimum of 1:50 at all times which is the same as the current contract.
- Q4** Could we get unit costs for Electricity and Gas so that we can compare with YMCA Group Purchasing pricing?
- A4** Unit costs for electricity and gas are available from ActewAGL.
- Q5** Could we get a copy of the Assets Register related to both pools and if possible age of that equipment?
- A5** Asset Register can be found at Attachment A.
- Q6** Could we please get a copy of the Fees and Charges we need to consider for 2012/13, in relation to our Income budget?
- A6** Fees and charges are at Attachment B.
- Q7** Could we get a copy of the "Condition assessment and maintenance schedule report undertaken by ABA Construction Officers 2009" referred to in 1.8.3.4 b)?
- A7** As there are two (2) reports, each of large size, they can either be collected from Shared Services Procurement or mailed to you. To arrange collection or mailing, please e-mail the Contact Officer at [procurementthree@act.gov.au](mailto:procurementthree@act.gov.au).

- Q8** Could we also get a copy of the Flooring Manufacturers Specifications with regard to potential replacement, referred to in 1.8.3.4 c)?
- A8 Manufacturer's specifications are no longer available. When floor finishes/coverings are next replaced, it is then to be replaced in accordance with manufacturer's specifications or earlier if deemed necessary by the Contract Manager. Any major replacement of floor finishes/coverings will be covered by the Territory as part of the Pools Improvement Program.
- Q9** Could we get the cleaning expectations for the suspended ceilings as per manufacturers specifications, referred to in 1.8.3.4 f)?
- A9 There are no manufacturer's recommendations; however, suspended ceilings are expected to be cleaned to an acceptable level as deemed by the Contract Manager.
- Q10** Can the Territory please provide a detailed breakdown of the income line item "Expense Recovery"?
- A10 Expense Recovery reflects the payments made by the Territory to the current Contractor and includes, for example, Repairs and Maintenance authorised overspends over the \$0.2m per annum threshold and operational compensation A breakdown can be found at Attachment E.
- Q11** Can the Territory please provide floor plans for both sites?
- A11 There are no floor plans for Canberra Olympic Pool as they have gone missing over the years. A basic floor plan of COP is available at Attachment D. The floor plan for LLC is also available at Attachment D.
- Q12** Can the Territory please provide a list of current fees and charges and clarification all parties will utilise the same fee in the Tender submission and CPI increase?
- A12 Maximum Fees and Charges are set for 2012/13 (The Territory will accept prices lower than those set) and can be found at Attachment B.
- Q13** Can the Territory please provide the complete Asset List from both sites?
- A13 Asset List is at Attachment A.
- Q14** Can the Territory please provide a breakdown of all the Lease and Rental Agreements in terms of financial and conditions (all arrangements will cease on the 30th June)?
- A14 All available information regarding rentals and leases are included as part of the Statement of Requirements under item 1.1.3 (i.e. Rental Agreements and Rental Income).
- Q15** Can the Territory please provide any existing commercial or community contra arrangements that will require honouring?
- A15 All contracts expire on 30 June 2012.
- Q16** Can the Territory please clarify the Point of Sale (POS) system currently being utilised at both facilities?
- A16 The POS system used at both facilities is Centaman.
- Q17** Can the Territory please provide a more detailed breakdown of expenditure items including maintenance and utility costs?
- A17 No greater detail can be provided than what is in the RFT already. It provides repairs & maintenance, gas, electricity and water separately already.

- Q18** We assume that pre-payments for Memberships, Learn to Swim classes and all other activities have been accrued and will be transferred to the new Contractor if a change in Contractor occurs? Can the Territory please clarify the total value of the accruals?
- A18** The forward receipts for advance payment memberships can be determined based on the available data contained in the Centaman system. It is a standard process that the incumbent will provide a calculation of advance receipts and transfer the value to the client at the conclusion of the Contract. It is expected the advance receipts figure will be fairly small as the vast majority of our memberships are direct debit. The Swim School Programs are scheduled to conclude on 30 June 2012. It would be very difficult to determine an estimate of accruals as memberships will fluctuate between now and the end of the Contract. Memberships for the last three (3) years can be found in the Statement of Requirements – an estimate may be taken from here as most members are on direct debit memberships.
- Q19** Can the Territory please clarify asset ownership pertaining to lockers?
- A19** The lockers are owned by the current Contractor.
- Q20** Can the Territory please provide the percentage breakdown of the weighting criteria?
- A20** Financial Resources and Management 15%  
 Management and Technical Resources 15%  
 Proposed Service Delivery 20%  
 Managing the Service 30%  
 Pricing 20%
- Q21** Please confirm any membership fees received by the current Contractor but not yet honoured will be passed through to any new Contractor. This includes annual memberships which expire post 30 June 2012, as well as unused visit passes.
- A21** Membership fees received in advance by the current Contractor will be passed through to any new Contractor. This includes annual memberships which expire post 30 June 2012.
- Q22** Subject to the response in (22) above, please confirm estimate of these fees to be reimbursed.
- A22** It would be very difficult to determine an estimate of these fees as the memberships will fluctuate between now and the end of the Contract. Memberships for the last three (3) years can be found in the Statement of Requirements – an estimate may be taken from here as most members are on direct debit memberships.
- Q23** Please confirm terms of equipment finance agreements the new operator needs to take on.
- A23** The gym equipment at Canberra Olympic Pool is a 48 month lease which commenced in December 2011 with a lease payment of \$2,424.70 (excl. GST) per month. The gym equipment for Lakeside Leisure Centre is a 60 month lease which commenced in November 2010 with a lease payment of \$2,672.69 (excl. GST) per month.
- Q24** "Pricing" is listed in both the weighted and non-weighted criteria. Is this correct i.e. Clause 3.3 (5) and Clause 3.4 (1)?

- A24 This is a clerical error. "Pricing" is a weighted criterion.
- Q25** Tenderers Declaration requires a "Name of ACT Professional Standards Scheme". Can you provide further details on what this is?
- A25 If your Company is not part of an ACT Professional Standards Scheme, please leave this section blank.
- Q26** Can you provide the Total Income and Total Expenditure tables electronically in Excel format?
- A26 See Attachment F.
- Q27** Can you confirm Payroll Tax has been paid and which expense item it is calculated under? Just wanting to confirm there is no special exemption in place.
- A27 Payroll tax has been paid and is included under Staff Oncosts in the Total Expenditure table. No special exemption is in place as far as the Territory is aware.
- Q28** Can you provide a breakup of the following expense items for the four (4) years?
- Staff oncosts
- Operating/Management Expenses
- A28 Example information for Operating/Management Expenses can be found at Attachment C. A breakdown of Staff Oncosts will not be made available.
- Q29** Utility costs i.e. electricity, water and gas seem to fluctuate from year to year. The water costs seem lower than expected. Can you provide some commentary on this and provide copies of the water bills for the relevant period?
- A29 Electricity, gas and water will fluctuate from year to year based on a number of factors including weather and patronage. There would also be variations over the past four (4) years due to the refurbishments completed at both facilities and upgrades to the filtration systems. The Territory does not have copies of the water bills for the relevant period. Water bills are the responsibility of the Contractor.
- Q30** Further to Q30 above, are there any Contracts in place for electricity and gas, or is the standard tariff pricing in place? If there are supply Contracts in place (i.e. large contestable customer), can details be provided?
- A30 The Territory does not have any Contracts in place for electricity, gas or water at Canberra Olympic Pool or Lakeside leisure Centre. Standard pricing is in place.
- Q31** Attendance figures to Lakeside Aquatic Facilities had a large increase from 2008/09 (161,555) to 2009/10 (274,524) and then dropped again in 2010/11 to 215,098. Can you provide some commentary on why this occurred?
- A31 In 2008/2009 Lakeside Leisure Centre underwent major refurbishment and was closed for several months effecting patronage. 2009/10 was one of Canberra's best summers (in terms of temperature) which saw greater attendance figures at all ACT Government Aquatic Facilities. In 2010/11, Canberra experienced one of its coldest and wettest summers in some time which saw lower attendance figures across all ACT Government Aquatic Facilities.

- Q32** Will all staff entitlements be paid out on Contract expiry, including any accrued Long Service Leave?
- A32 All staff entitlements will be the responsibility of the current Contractor. All staff are contracted to the current Contractor, not the facilities themselves, however, the Contractor is to offer to all existing staff, up to the level of Operations Manager, the opportunity to participate in an initial recruitment process. The initial recruitment process will be used to staff the facilities after 1 July 2012.
- Q33** I note the Centaman membership system is being used. Please confirm this will stay in place and when the licence fee is paid up until.
- A33 Centaman will stay in place. The license will expire on 30 June 2012.
- Q34** Direct debit memberships seem to be managed by Debit Success. Please confirm current direct debit memberships include a clause to transfer/assign these Contracts to a new Contractor?
- A34 Direct debit memberships are managed by Debit Success and, as far as the Territory is aware, could be transferrable to new Contractor using Debit Success or an alternate direct debit provider upon the completion of a release/transfer form.
- Q35** Is the suggested plan that the current pricing is to apply (i.e. casual pool entry, etc) at Contract commencement or can different rates apply? We consider some of the rates and fees to be excessive and could be reduced.
- A35 The current pricing is the maximum that prices can be set for 2012/13. The Territory welcomes reductions in prices. However, the Contractor must not offer any membership arrangements which include rights to use the facilities at COP and/or LLC as well as facilities other than those at COP and/or LLC. For the avoidance of doubt, the Contractor must seek the Territory's prior written approval before offering any memberships or other rights to use the COP and/or LLC facilities.
- Q36** Could we ask to have the number of pool lanes that the current Memorandum of Understanding Agreements (listed in Table 4 – Current Bookings) covers for COP?
- A36 All existing Memorandum of Understanding expire on 30 June 2012 with the current management Contract.

**IMPORTANT NOTICE**

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**ADDENDUM 1 TO REQUEST FOR TENDER NO. 16106.110  
MANAGEMENT AND PROVISION OF AQUATIC SERVICES FOR LAKESIDE  
LEISURE CENTRE AND THE CANBERRA OLYMPIC POOL**

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Please note the following additional information for the above Request for Tender (RFT):

1. The closing date for the receipt of tenders has been extended until **2.00pm (Canberra Time) on Thursday, 12 January 2012.**
2. The date has been extended as the relevant documentation relating to this procurement has been delayed.
3. Any party that has registered via the Shared Services Procurement website will be e-mailed a copy of the documentation once available.

For further information, please contact me, as the contact officer who is also named on the cover page of this RFT.

Shauna Oakley  
Procurement Officer  
Shared Services Procurement  
[procurementthree@act.gov.au](mailto:procurementthree@act.gov.au)  
Ph: (02) 6205 9998

2 December 2011

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**SHARED SERVICES PROCUREMENT**

ABN 66 676 633 401

Telephone (02) 6207 5542 • Fax (02) 6207 5468

PO Box 818 Dickson ACT 2602

Levels 1 & 3 North Building, Dame Pattie Menzies House, 16 Challis St Dickson ACT 2602

## EVALUATION PLAN

### 1. EVALUATION TEAM

#### Aim

This Evaluation Plan details the Evaluation Team and their responsibilities, the Evaluation Methodology and Assessment Criteria by which offers received will be evaluated.

The Evaluation Team detailed below has been formed to evaluate the tenders for the above project. All members of the Evaluation Team are aware of their responsibilities and obligation to demonstrate impartiality and equity to all Tenderers.

#### Role

The Evaluation Team will be responsible for:

- a) maintaining probity;
- b) evaluating the responses in accordance with the criteria and methodology;
- c) documenting the evaluation process;
- d) preparing an Evaluation Report;
- e) seeking Director General or Delegate approval to proceed with negotiating a Contract with the preferred Tenderer; and
- f) debriefing unsuccessful Tenderers.

#### Members

EVALUATION TEAM			
<b>Name</b>	1. Rick Rand	2. Sam Croser	3. Gary Spencer
<b>Position</b>	Chair	Member	Member
<b>Agency</b>	Sport and Recreation Services (EDD)	Sport and Recreation Services (EDD)	Territory and Municipal Services Directorate (TAMSD)
<b>Statement on team composition</b>	The Evaluation Team has the knowledge and understanding of the requirements of the RFT and has experience in evaluating Tenders.		

Members of the Evaluation Team are personally appointed and should not be withdrawn or replaced without the approval of the Director General or Delegate.

### **Specialist Advice and Support**

The Evaluation Team may, as required, utilise specialist advice to assist in the evaluation process.

The areas of experience may include:

- a) technical analysis
- b) financial assessment;
- c) business planning;
- d) probity; and
- e) legal issues.

## **2. EVALUATION PROCESS AND CRITERIA**

### **Evaluation Process**

- a) The process is to select a suitably qualified Contractor who will provide the agreed services to the ACT public at a fee and under arrangements agreeable to the Territory.
- b) Assessment for formal compliance will include the following factors:
  - 1) receipt of Tenders prior to the Request for Tender closing date and time; and
  - 2) submission of a completed Declaration by Tenderer Schedule.
- c) All compliant Tenders received will be evaluated against the assessment criteria (qualitative).
- d) Tenderers nominated referees or other referees may be contacted and a series of standardised questions, relevant to the Statement of Requirements, will be asked.
- e) Tenders will be evaluated by individual team members against each criterion and rated a score out of 10. The individual scores allocated by the individual team members will then be discussed and an agreed Evaluation Team (consensus) score for each Tender against each criterion.
- f) The agreed Evaluation Team score will then be multiplied by the criteria weighting to obtain a weighted score for each criterion for each offer. The individual weighted scores for each criterion will then be added to obtain a total weighted score for each Tenderer.
- g) The Tender Evaluation Team may undertake a financial viability check of all Tenderers at its discretion.
- h) A best and final offer may be sought from the preferred or all Tenderers at the Evaluation Team's discretion at any time.
- i) The Evaluation Team may undertake a risk assessment to ensure that all relevant factors have been considered. If there is no unacceptable risk to the

Territory, the Evaluation Team will recommend to the Delegate that the Tenderer with the highest total weighted score and acceptable fees and charges be declared the preferred Tenderer.

### Assessment Criteria

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

WEIGHTED CRITERIA	WEIGHTING
<p><b>Financial Resources and Management</b> Tenderers are to provide:</p> <ul style="list-style-type: none"> <li>a) their financial history;</li> <li>b) proposed financial management systems for this Tender; and</li> <li>c) financial capacity of offer.</li> </ul>	15
<p><b>Management and Technical Resources</b> Tenderers are to provide an outline of:</p> <ul style="list-style-type: none"> <li>a) management resources and structure;</li> <li>b) management, technical skills and knowledge in Aquatic and Facility Management; and</li> <li>c) experience in operating Aquatic and Leisure Facilities in a contractual environment including a list of similar projects undertaken over the last five (5) years, including:               <ul style="list-style-type: none"> <li>i. the period/length of Contract; and</li> <li>ii. site contacts.</li> </ul> </li> </ul>	15
<p><b>Proposed Service Delivery</b> Tenderers are to provide an outline of:</p> <ul style="list-style-type: none"> <li>a) proposed range of leisure, recreational and wellness based programs and service development; and</li> <li>b) innovative developments and fitness facilities upgrade proposal.</li> </ul>	20
<p><b>Managing the Service</b> Tenderers are to provide details of:</p> <ul style="list-style-type: none"> <li>a) operational and quality plans;</li> <li>b) risk management and OH&amp;S;</li> <li>c) asset management;</li> <li>d) information technology management;</li> <li>e) staff development and training;</li> <li>f) customer service and marketing commitment;</li> <li>g) business planning, reviews and monitoring; and</li> </ul>	30

h) reporting procedures and systems.	
<b>Pricing</b> Tenderers must complete the Pricing Schedule template that has been included in the RFT. All pricing must be submitted in a separate sealed envelope and include GST where applicable.	20
<b>TOTAL</b>	<b>100%</b>
<b>NON-WEIGHTED CRITERIA</b>	
<b>Risk</b> This includes a financial viability check at the Tender Evaluation Teams discretion and possible contact with referees including ones that may be selected by the Territory's Tender Evaluation Team at their discretion.	Acceptable / Not Acceptable

### Scoring Regime

The Evaluation Team has adopted a numerical scoring scale at Attachment A against which each team member will assess the weighted Assessment Criteria.

### 3. EVALUATION REPORT AND LETTERS OF DECLINE/DEBRIEFINGS

#### Evaluation Report

The Evaluation Team will prepare the following information for inclusion with the Evaluation Report.

- a) background to the process;
- b) the evaluation process, including comments and scores against each criteria;
- c) the order of preference of Tenders;
- d) value for money;
- e) proposed methods for management of risks;
- f) identification of any issues which should be resolved by negotiation; and
- g) recommendations to the Director General or approving delegate.

#### Letters of Decline / Debriefings

Letters of decline will be sent to all unsuccessful Tenderers. Letters of decline and debriefings will comply with the requirements outlined in Procurement Circular 2007/05 *Debriefing Unsuccessful Tenderers*.

## ATTACHMENT A

**Risk Rating Table for use in Tender Evaluation (except Pricing)**

<b>Descriptor</b>	<b>Sample Commentary</b>	<b>Rating</b>
Superior	Highly convincing and credible. Response demonstrates superior capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Comprehensively documented with all claims fully substantiated. Insignificant risk.	10
Outstanding	Highly convincing and credible. Response demonstrates outstanding capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Documentation provides complete details. All claims adequately demonstrated and substantiated. Insignificant risk.	9
Excellent	Response complies, is convincing and credible. Response demonstrates excellent capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Some minor lack of substantiation but the Tenderer's overall claim is supported. Low risk.	8
Very Good	Response complies, is convincing and credible. Response demonstrates very good capability, capacity and experience, relevant to, or understanding of, the requirements of the Evaluation Criterion. Minor uncertainties and shortcomings in the Tenderer's claims or documentation. Low risk.	7
Good	Response complies and is credible but not completely convincing. Response demonstrates adequate capability, capacity and experience, relevant to, or understanding of, the requirements of the Evaluation Criterion. Tenderer's claims have some gaps. Low risk.	6
Adequate	Response has minor omissions. Credible but barely convincing. Response demonstrates only a marginal capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Medium risk.	5
Reservations	Barely convincing. Response has shortcomings and deficiencies in demonstrating the Tenderer's capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Medium risk.	4
Poor	Unconvincing. Response has significant flaws in demonstrating the Tenderer's capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. Medium risk.	3
Very Poor	Unconvincing. Response is significantly flawed and fundamental details are lacking. Minimal information has been provided to demonstrate the Tenderer's capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. High risk.	2
Inadequate	Response is totally unconvincing and requirements have not been met. Response has inadequate information to demonstrate the Tenderer's capability, capacity and experience relevant to, or understanding of, the requirements of the Evaluation Criterion. High risk.	1
Not Acceptable	Tenderer was not evaluated as it did not provide any requested information and/or contravened nominated restrictions. High risk.	0

## Risk Rating Table for use in Tender Evaluation

Superior	Financial offer (payable to Sport and Recreation Services)	10
Outstanding	\$0-\$50,000.00 *	8
Excellent	\$50,001.00 - \$100,000.00*	6
Very Good	\$100,001.00 - \$150,000.00*	4
Good	\$150,001.00 - \$200,000.00*	2
Adequate	\$200,001.00 - \$250,000.00*	1
Inadequate	\$250,001.00 and over*	0

**\*Payable by the Territory to the Contractor.**

The Territory has also made the inclusion for the use of a Best and Final Offer if required.



## Procurement Plan Minute

PROCUREMENT OVERVIEW															
<b>To</b>	David Dawes Director General Economic and Development Directorate (EDD)														
<b>Name of Project</b>	Management and Provision of Aquatic Services for Lakeside Leisure Centre and the Canberra Olympic Pool.														
<b>Purpose</b>	This minute seeks your agreement to engage a suitably qualified and experienced Organisation for the Management and Provision of Aquatic Services for Lakeside Leisure Centre and the Canberra Olympic Pool.														
<b>Estimated value (\$)</b>	The total anticipated value of this Procurement over the maximum term of the Contract is \$1,250,000.00 inclusive of GST.														
<b>Timing/urgency</b>	<p>Indicative timeframe:</p> <table border="0"> <tr> <td>RFT issued</td> <td>29 November 2011</td> </tr> <tr> <td>RFT closes</td> <td>20 December 2011</td> </tr> <tr> <td>Tender evaluation</td> <td>January/February 2012</td> </tr> <tr> <td>Delegate approval</td> <td>March 2012</td> </tr> <tr> <td>Contract negotiation and execution</td> <td>March 2012</td> </tr> <tr> <td>Debrief unsuccessful Tenderers</td> <td>March/April 2012</td> </tr> <tr> <td>Contract commencement</td> <td>1 July 2012</td> </tr> </table> <p>(Note: timings are estimates and may change after the Procurement Plan is signed)</p>	RFT issued	29 November 2011	RFT closes	20 December 2011	Tender evaluation	January/February 2012	Delegate approval	March 2012	Contract negotiation and execution	March 2012	Debrief unsuccessful Tenderers	March/April 2012	Contract commencement	1 July 2012
RFT issued	29 November 2011														
RFT closes	20 December 2011														
Tender evaluation	January/February 2012														
Delegate approval	March 2012														
Contract negotiation and execution	March 2012														
Debrief unsuccessful Tenderers	March/April 2012														
Contract commencement	1 July 2012														
<b>Tender Number</b>	16106.110														
<b>Is Government Procurement Board sign off required?</b>	No.														
<b>Is ACT Government Solicitor consultation required?</b>	Yes.														
PROCUREMENT REQUIREMENTS															
<b>Objective or scope of works or services to be provided</b>	Please see Attachment 1 – Statement of Requirements.														
<b>Type</b>	Services.														
<b>Funding</b>	Funding is available within the Sport and Recreation Services recurrent budget.														
<b>Consultation (including pre tender)</b>	Industry was invited to review and provide comment on the Territory's draft Statement of Requirements and the Packaging and Commercial Contract for the Management and Provision of Aquatic Services for Lakeside Leisure														

	Centre and Canberra Olympic Pool. Two (2) responses were received and taken into consideration.		
<b>PROCUREMENT RISK</b>			
<b>Risk</b>	Please see Attachment 2 – Risk Plan.		
<b>PROCUREMENT METHODOLOGY</b>			
<b>Description of the procurement method to be used</b>	Public Request for Tender.		
<b>Evaluation</b>	Please see Attachment 1 – Evaluation Plan.		
<b>Is this suitable to be a Social Procurement?</b>	No, the services that will be rendered for this Procurement require specialised training.		
<b>EVALUATION TEAM</b>			
<b>Name</b>	1. Rick Rand	2. Sam Croser	3. Gary Spencer
<b>Position</b>	Chair	Member	Member
<b>Agency</b>	Sport and Recreation Services (EDD)	Sport and Recreation Services (EDD)	Territory and Municipal Services Directorate (TAMSD)
<b>Statement on team composition</b>	The Evaluation Team has the knowledge and understanding of the requirements of the RFT and has experience in evaluating Tenders.		
<b>CONTRACT MANAGEMENT</b>			
<b>Number of contracts</b>	It is anticipated that one contract will be entered into.		
<b>Contract management</b>	The contract will be managed by a suitably experienced Sport and Recreation staff member.		
<b>Period of contract(s)</b>	Five years with no provision for extensions. The contract will not exceed five years.		
<b>AUSTRALIAN FREE TRADE AGREEMENTS (FTAs)</b>			
<b>Does the AUSFTA / Australia-Chile FTA apply?</b>	Yes.		
<b>AUSTRALIAN GOVERNMENT FUNDING</b>			
<b>Is there Australian Government funding attached to the procurement?</b>	No.		
<b>SHARED SERVICES PROCUREMENT RECOMMENDATION</b>			
<b>Project Officer</b>	Shauna Denino	<b>Signature</b>	
		<b>Date</b>	
		<b>Phone Number</b>	02 6205 9998
<b>Manager</b>	Renaë Boege	<b>Signature</b>	
		<b>Date</b>	
<b>A/g Director</b>	Catriona Vigor	<b>Signature</b>	

		<b>Date</b>	
<b>AGENCY ENDORSEMENT</b>			
<b>Name</b>	Sam Croser	<b>Phone Number</b>	02 6207 1693
<b>Position</b>	Senior Project Officer, Aquatic Management Sport and Recreation Services - EDD		
<b>Signature</b>		<b>Date</b>	
<b>DIRECTOR GENERAL/DELEGATE APPROVAL</b>			
<b>Name</b>	David Dawes		
<b>Position</b>	Director General - EDD		
<b>Statement</b>	The Procurement Plan and Attachments are approved.		
<b>Signature</b>		<b>Date</b>	

## RISK PLAN AND MATRIX

The Risks should be assessed using the following Consequence and Likelihood Scales and the Risk Analysis Matrix, developed in accordance with Australian Standard AS/NZS ISO 31000:2009.

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### CONSEQUENCES

	<b>Insignificant</b>	<b>Minor</b>	<b>Moderate</b>	<b>Major</b>	<b>Catastrophic</b>
<b>General</b>	Negligible impact upon objectives	Minor effects that are easily remedied	Some objectives affected	Some important objectives cannot be achieved	Most objectives cannot be achieved
<b>Community</b>	Injuries or condition not requiring medical attention	Minor injury or First Aid Treatment needed	Serious injury needing hospitalisation, multiple medical treatment cases	Life threatening injuries, irreversible disability	Death/s, multiple life threatening injuries, irreversible disabilities
<b>Property (including intangibles eg IT data &amp; intellectual property)</b>	Slight (non structural) damage or loss of public/private goods, assets and data. Possible small compensation.	Minor (structural) damage or loss and liability for compensation	Significant damage or loss involving possible legal action for compensation	Serious damage or loss requiring operational changes involving legal action for significant compensation.	Extensive damage or loss, Business Continuity Plans activated, very heavy legal and compensation costs.
<b>Financial</b>	Possible unavoidable Expenditure resulting in Budgetary losses of up to 1% (or <\$5K)	Up to 5% of budget (or <\$50K)	Up to 20% of budget (or <500K)	Up to 40% of budget (or <\$5M)	Greater than 40% of budget (or >\$5M)
<b>Environment</b>	Negligible damage and loss of flora and fauna, degradation and/or loss of environmental amenity	Short term effects not affecting ecosystem functioning	Moderate environmental impacts, able to be contained and repaired in medium term	Long term environmental impairment of ecosystem functions	Widespread, long-term environmental impairment of more than one ecosystem
<b>Reputation</b>	Minor adverse local attention, internal review	Attention from local media, scrutiny required by internal committees	Significant media attention, scrutiny required by external committee, Auditor General etc	Intense public, political and media scrutiny, damage to organisation	Assembly inquiry or Commission of inquiry, adverse national media

<b>LIKEIHOOD</b>	Event is expected to occur in most circumstances	<b>Almost Certain</b>	<i>Medium</i>	<i>High</i>	<i>High</i>	<i>Very High</i>	<i>Very High</i>
	Event will probably occur on most circumstances	<b>Likely</b>	<i>Medium</i>	<i>Medium</i>	<i>High</i>	<i>High</i>	<i>Very High</i>
	Event may occur at some time	<b>Possible</b>	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>High</i>	<i>High</i>
	Event is not expected to occur	<b>Unlikely</b>	<i>Low</i>	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>High</i>
	Event is likely to occur only in exceptional circumstances	<b>Rare</b>	<i>Low</i>	<i>Low</i>	<i>Medium</i>	<i>Medium</i>	<i>High</i>
<b>RISK MATRIX</b>							

- Low Risk:** Unlikely to require allocation of resources, manage by routine procedures.
- Medium Risk:** Must be brought to attention of manager, resources required to address risk must be allocated.
- High Risk:** Senior management action required, risk treatments applied. Responsibility must be specified. Subject to regular monitoring.
- Very High Risk:** Immediate action required. Senior executive attention needed with action plans and management responsibility specified. All possible treatments to be put in place to reduce risk.

## RISK REGISTER

Identify the risks which could affect the successful outcome of the procurement and group by type of risk such as:

1. **Procurement Risks:** e.g. delays, process runs over time, no suitable tenders received, statement of requirements inadequately defined
2. **Contract Risks:** e.g. failure of contractor to meet performance, budgetary or quality standards, contractor becomes insolvent  
e.g. poor contract management
3. **External Risk Factors:** e.g. weather delays; adverse economic events- interest rate increases or exchange rate movements.
4. **Project Risks:** e.g. changes in policy directions, change in scope.

Project: Facility Management Contracts for Canberra Olympic Pool & Lakeside Leisure Centre

Prepared by: Sam Croser

Date: 28/03/2011

Reviewed by: Rajdeep Pada

Date: 29/03/2011

Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
<b>Procurement</b>									
R1	Procurement process does not accord with relevant legislation, policy and procedures.	<p><b>Moderate</b></p> <p>Criticism from internal and external auditors.</p> <p>Potential for complaints from unsuccessful Tenderers.</p> <p>Potential for legal action against the Territory.</p> <p>Damage to the reputation of Shared Services Procurement (SSP) and the Territory.</p> <p>Possible negative media</p>	Likely	High	6	<p>Experienced Procurement Officer to be assigned as Project Officer.</p> <p>Procurement documentation and processes to be vetted in accordance with SSP policy.</p> <p>Project Officer to be included as a member/advisor to the Evaluation Team if required.</p> <p>Specialist probity advisor to be consulted where deemed necessary.</p>	Moderate	Unlikely	Medium

Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
		attention.							
R2	Statement of Requirements (SOR) contains errors or does not adequately detail the requirement.	<p><b>Minor</b></p> <p>Tenders received do not adequately address the requirement.</p> <p>Need to issue addenda to the RFT amending the SOR (where deficiencies in the SOR are identified prior to the Request for Tender (RFT) closing date and time).</p> <p>Need to issue a revised SOR to all Tenderers (where deficiencies in the SOR are identified after the RFT closing date and time).</p>	<b>Possible</b>	<b>Medium</b>	7	<p>Pre Tender Consultation conducted by way of a Consultation Paper.</p> <p>SOR to be developed by subject-matter experts in consultation with all key stakeholders.</p>	<b>Minor</b>	<b>Unlikely</b>	<b>Low</b>
R3	No response or poor quality responses to the RFT.	<p><b>Moderate</b></p> <p>Additional time and cost associated with re-approaching</p>	<b>Unlikely</b>	<b>Medium</b>	5	The RFT will be advertised in the Canberra Times and the Shared Services Procurement Website.	<b>Moderate</b>	<b>Rare</b>	<b>Medium</b>

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Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
		the market.				Market research confirms that there are viable Organisations.			
R4	All Tenders received are either incomplete or non-conforming.	<p><b>Moderate</b></p> <p>Need for the Evaluation Team to request clarification or further information from Tenderers (where omissions and/or areas of non-conformance are immaterial).</p> <p>Exclusion of all Tenders from consideration (where there are material omissions and/or areas of non-conformance).</p> <p>Additional time and cost associated with re-approaching the market.</p>	<b>Unlikely</b>	<b>Medium</b>	4	<p>The RFT document will clearly state what constitutes a conforming Tender.</p> <p>The RFT document will clearly identify the information to be provided in a Tender.</p> <p>Market research confirms that there are Organisations capable of providing a materially conforming Tender.</p> <p>The Evaluation Team will allow Tenderers to correct areas of immaterial non-conformance.</p>	<b>Moderate</b>	<b>Unlikely</b>	<b>Medium</b>
R5	Protracted Contract negotiations.	<p><b>Minor</b></p> <p>Delays in the</p>	<b>Possible</b>	<b>Medium</b>	8	Draft Contract terms and conditions will be issued with the	<b>Minor</b>	<b>Unlikely</b>	<b>Low</b>

Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
		commencement of the Contract(s).  Possible need to negotiate with other Tenderer(s).				RFT. Tenderers will be required to identify areas of non-compliance in their Tenders. This will provide an early indication of those clauses requiring negotiation, and will assist in forming negotiation strategies.  Assignment of experienced negotiators to the Territory's negotiation team.			
R6	Contract not awarded due to a change in Departmental policy.	<b>Minor</b>  Receipt of complaints from Tenderers.	<b>Unlikely</b>	<b>Medium</b>	9	Project stakeholders and sponsor have provided in-principle approval of the spending response.  The requirement for the implementation of Services is driven by legislation.	<b>Minor</b>	<b>Rare</b>	<b>Low</b>
<b>Contract</b>									
R7	Contractor(s) fail to deliver the Services in accordance with the Contract requirements.	<b>Major</b>  The Services do not perform in accordance with the Territory's requirements.	<b>Possible</b>	<b>High</b>	1	Tenderers will be assessed on their proven ability to provide the Services in accordance with the RFT's Statement of Requirements	<b>Major</b>	<b>Rare</b>	<b>Medium</b>

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Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
		<p>Assignment of Territory resources to investigate and remedy non-conformance.</p> <p>Termination of Contract(s) (where non-conformance is unable to be remedied).</p> <p>Need to engage another Contractor to finalise performance of the Contract(s).</p> <p>Additional time and cost associated with re-approaching the market.</p>				<p>(which will be the basis for the contract requirements).</p> <p>Establish Contract management procedures that facilitate close monitoring of performance of the Contract(s).</p>			
R8	Contractor(s) breach Contract terms and conditions.	<p><b>Major</b></p> <p>Interruption to Services while breach is investigated / remedied, resulting in delays.</p> <p>Contract(s) terminated (in the event of a</p>	Unlikely	High	2	The draft Contract will be issued to the market as part of the RFT. This will provide Tenderers with ample time in which to familiarise themselves with the terms and conditions. Familiarity with the draft Contract should reduce the	Major	Rare	Medium

Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
		Services breach).  Need to engage another Contractor(s) to finalise performance of the Contract(s).  Additional time and cost associated with re-approaching the market.				likelihood of non-compliance.  Establish Contract management procedures that facilitate close monitoring of the Contractor(s)' adherence to terms and conditions.			
R9	Contractor(s) becomes insolvent during the Contract term.	<b>Major</b>  Services not implemented and/or discontinued.  Need to engage another Contractor(s) to finalise performance of the Contract(s).  Additional time and cost associated with re-approaching the market.	<b>Possible</b>	<b>High</b>	3	The financial viability of all Tenderers will be assessed as part of the evaluation process at the Territory's discretion.  Tenderers determined not to be financially viable will not be contracted to provide the Services.	<b>Major</b>	<b>Rare</b>	<b>Medium</b>
<b>Project</b>									
R10	Insufficient internal resource capacity.	<b>Minor</b>	<b>Possible</b>	<b>Medium</b>	10	Consult regularly with staff and	<b>Minor</b>	<b>Unlikely</b>	<b>Low</b>

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<b>Risk No</b>	<b>The Risk (Cause)</b> What can happen and how	<b>Consequence Rating</b> Describe the consequence	<b>Likelihood Rating</b>	<b>Level of Risk Rating **</b> (refer Matrix)	<b>Risk Priority Ranking</b>	<b>How are Risks to be Managed?</b>	<b>Consequence Rating after Treatment</b>	<b>Likelihood Rating after Treatment</b>	<b>Level of Risk Rating after Treatment</b>
		Staff involved with the evaluation of Tenders or implementation of resultant Contract Services are unavailable as a result of illness or excessive workload.				supervisors to ensure workloads are manageable and monitored.  Sufficient back up resources will be sought from within the Department.			
<b>Legal</b>									
R11	Contractor engages in unsafe practices.	<b>Catastrophic</b>  Injury to staff and/or members of the public.  Possible legal action.	<b>Likely</b>	<b>High</b>	1	Tenderers will be assessed against their OH&S record and practices and Risk Management.  All staff employed by the Contractor must be adequately qualified and experienced for performing their jobs. All staff (except cleaning staff) are required to have Level 2 First Aid Certificate, Induction Program (including but not limited to health	<b>Catastrophic</b>	<b>Possible</b>	<b>High</b>

Risk No	The Risk (Cause) What can happen and how	Consequence Rating Describe the consequence	Likelihood Rating	Level of Risk Rating ** (refer Matrix)	Risk Priority Ranking	How are Risks to be Managed?	Consequence Rating after Treatment	Likelihood Rating after Treatment	Level of Risk Rating after Treatment
						<p>and safety and emergency procedures) and must have an understanding of legislation specific to their roles (eg. food hygiene, chemical handling).</p> <p>The Contractor must take out and maintain relevant insurances to perform the Services.</p>			

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\*\* Separate Risk Treatment Plan required for 'High' and 'Very High' risks.

## RISK TREATMENT PLAN

Required for all risks rated as 'High' or 'Very High' before Mitigation.

Risk Priority Ranking	Risk No	The Risk (Cause) What can happen and how	Risk Treatment	Monitoring and Reporting	Level of Risk Rating after Treatment	Emergency Response should Control Measures Fail
1	R11	Contractor engages in unsafe practices.	<p>Tenderers will be assessed against their OH&amp;S record and practices and Risk Management.</p> <p>All staff employed by the Contractor must be adequately qualified and experienced for performing their jobs. All staff (except cleaning staff) are required to have Level 2 First Aid Certificate, Induction Program (including but not limited to health and safety and emergency procedures) and must have an understanding of legislation specific to their roles (e.g. food hygiene, chemical handling).</p> <p>The Contractor must take out and maintain relevant insurances to perform the Services.</p>	<p>The performance of the Contractor will be closely managed as part of robust Contract management.</p> <p>The Contractor is to conduct a risk assessment for each facility and develop an initial Risk Management Plan that addresses the following:</p> <p>A Risk Management Register for each facility; and</p> <p>Identification of all forms of risk, including but not limited to:</p> <ul style="list-style-type: none"> <li>• OH&amp;S risks; and</li> <li>• Food Plan.</li> </ul> <p>The Contractor is to maintain and update the initial Risk Management Plan quarterly, in accordance with the Australian Standard for risk management, detailing all of the procedures in place to minimise risk in all areas of the service delivery.</p> <p>The Contractor is to review emergency evacuation procedures at each of the facilities on an annual basis to</p>	High	Immediately contact appropriate authorities.

				<p>ensure that a comprehensive procedure is developed and communicated to all permanent and casual staff engaged at each of the individual facilities. These procedures should be communicated and displayed to all patrons and the general public visiting the facilities.</p> <p>As part of the Yearly Service Plan, the Contractor is to provide an OH&amp;S and Risk Management Plan, which is to include, as a minimum:</p> <ul style="list-style-type: none"> <li>• Reviewed and updated Risk Management Plan;</li> <li>• Reviewed and updated OH&amp;S Management System;</li> <li>• OH&amp;S training plan for next annual period is to be integrated into the overall training plan for each of the facilities; and</li> <li>• Emergency Action Plan review and subsequent recommendations.</li> </ul>		000051
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Note: Where the “Level of Risk Rating after Treatment” (ie the Residual Risk) is **still at a “High” level**, then risk monitoring is to be either:

- a. Elevated to a Supervisor level, or
- b. At a minimum, reported upon on a regular basis.

## **1. Pricing**

- (1) It is expected the appointed manager will have the right to all income from operation of the facilities and will be responsible for all expenses. Capital expenditure and both improvements and replacements (other than as a result of the negligence of the manager) will be the responsibility of the Territory, unless the manager, with the approval of the Territory, elects to undertake capital expenditure.
- (2) The Territory expects to receive a return from operation of the facilities, which might be based on a percentage of gross revenue received. It is the expectation of the Territory that this percentage of gross revenue will be applied toward capital expenditure at the facilities.
- (3) Irrespective of clause 1(2) the Territory understands the Tenderers will undertake their own due diligence in relation to the potential earnings and expenses from management of the facilities and must include in their Tender details of all fees and returns from operation of the facilities as between themselves and the Territory.

## **2. Term**

- (1) Given the expected closure and major redevelopment of the Canberra Olympic Pool within the next three (3) to five (5) years, it is expected a term of five (5) years will be offered for the management agreement to the successful Tenderer, subject to the following termination provisions:
  - (a) The Territory may in its absolute discretion determine to close the Canberra Olympic Pool facility at any time upon giving the manager 60 days written notice. In this event the management of the Canberra Olympic Pool facility will be excluded from the management agreement, however the management agreement will continue in all respects in relation to management of the Lakeside Leisure Centre;
  - (b) At least six (6) months, but no less than three (3) months prior to the 3<sup>rd</sup> anniversary of the management agreement, the Territory may give notice to the manager of termination of the management agreement; and
  - (c) At least six (6) months, but no less than three (3) months prior to the 4<sup>th</sup> anniversary of the management agreement, the Territory may give notice to the manager of termination of the management agreement.

## **3. Canberra Olympic Pool**

- (1) In the event the Canberra Olympic Pool is closed by the Territory during the term of the management agreement, the manager will be given the opportunity to submit proposals to the Territory in relation to relocation and continued operation of services including the gymnasium and fitness classes. The Territory will consider any proposal in its absolute discretion.

## ATTACHMENT 1 - STATEMENT OF REQUIREMENTS

### 1.1 INTRODUCTION

#### 1.1.1 Scope of the Contract

The Contract is to cover the management and operation of the Canberra Olympic Pool, Civic and the Lakeside Leisure Centre, Tuggeranong. The Contract is to cover both Centres as a combined operation.

The scope of the Service to be covered by the Contract includes:

- a) The management, marketing and promotion of programs, activities and events; and
- b) The operation and management of the Leisure and Aquatic Facilities of:
  - (i) Canberra Olympic Pool, Civic; and
  - (ii) Lakeside Leisure Centre, Tuggeranong.

It is the Territory's aim that each facility operates to best practice industry standards to ensure that quality programs and services meet the needs of the community and the customer base in an effective, safe and efficient manner.

At Canberra Olympic Pool, Sport and Recreation Services (SRS), the business unit responsible for managing these facilities, is currently completing a study on a major redevelopment of the Centre. The timing of the redevelopment is uncertain at this stage. Redevelopment is likely to occur the Contract period, but not before 2013/14. The scale of the project is such that closure of Canberra Olympic Pool will be essential for an extended period, possibly over two (2) years. More detail will be available if/when funding is provided for forward design of the project. The Contractor will be provided with as much notice of the project as possible to facilitate planning for the transitional arrangements.

The Contractor will have the opportunity to provide input to the design of the redeveloped Centre.

The redeveloped Centre, with improved and expanded amenities, will have major implications on the Services it can provide, its financial performance and staffing requirements. This will clearly impact significantly on the operation of the Contract and will require renegotiation of terms for the period during and after the redevelopment project.

#### 1.1.2 Canberra - the City

Canberra is Australia's largest inland city. In June 2011, its population was estimated to be 363,850. It is predicted that this will grow to 414,900 in 2021.

The following table indicates the projected population trends in regions of Canberra over the next ten (10) years.

	Population	Population	Annual growth	Median age	Median age
	2009	2019	%	2009	2019
<b>District</b>					
North Canberra	48,850	55,150	1.3	33	32
South Canberra	27,450	30,600	1.0	38	38
Woden Valley	34,200	35,300	0.5	39	40

Weston Creek/Stromlo	22,850	23,750	0.4	39	41
Belconnen	89,850	94,850	0.6	34	36
Tuggeranong	89,300	88,250	-0.1	34	36
Gungahlin	38,950	55,450	4.2	30	33
Molonglo					
<b>TOTAL</b>	<b>347,850</b>	<b>390,100</b>	<b>1.2</b>	<b>34</b>	<b>36</b>

*Source: ACT Chief Minister's Department, ACT Population Projections for Suburbs and Districts 2007 to 2019*

For Canberra Olympic Pool, the residential catchment comes mainly from North and South Canberra, although its strategic location on the edge of the city's CBD means that it attracts many users from residences further afield who work in the city centre.

For Lakeside Leisure Centre, the majority of users come from North and South Tuggeranong and Weston Creek.

### **1.1.3 Overview of Facilities**

#### **1.1.3.1. Canberra Olympic Pool (Civic)**

##### **Brief History**

The Canberra Olympic Pool (COP) was built in 1955 during the lead-up to the 1956 Melbourne Olympic Games. As with many other parts of Australia, this was a period of strong public interest in swimming and diving.

COP was one of very few centres in the country developed with three (3) pools – 50 metre main pool, dive pool and toddlers' pool. At the time, COP was considered to be an outstanding facility, winning the Sulman Award of the Royal Australian Institute of Architects for meritorious architecture in New South Wales in the recreational and sport class for 1955.

It is this distinction that has led to Canberra Olympic Pool's registration on the Register of the National Estate, and its nomination for inclusion on the ACT Interim Heritage Places Register.

Because of the sites heritage values, a Conservation Management Plan has been prepared to give background information on the details of the buildings and other components, as well as guidance on how the site should be managed into the future. A copy of the Conservation Management Plan is available from SRS.

COP has served as a highly valued community facility for over fifty (50) years and over the years a number of changes have been made to try and adapt to changing needs.

The most significant was the introduction in 1992 of the air support dome to allow the use of the 50 metre pool all year round. For the first couple of years the dome was erected in winter and dismantled in summer but when Contract Management of the facility began in 1996 it was decided to leave the dome erected all year round.

The dome was replaced in 2008 as part of a \$2 million refurbishment project that included other minor upgrade works, including repainting of all pools, the dive tower, externals of main building, etc.

##### **Range of Programs Currently Available**

###### Aquatics

Swim and Survive lessons for school children

RLSS Learn-to-Swim Program for Infants