



EXPRESSION OF INTEREST CONDITIONS

1. Capacity to Comply with the Overview of Requirements

An Expression of Interest process details Council's requirements for the goods and/or services that are the subject of an invitation. The assumption is that each invitee will be capable of providing all of the goods, services and/or works in full. Where an invitee believes it will not be capable of providing all the goods/services/works in full or will only comply subject to conditions, it should either not apply or set out potential limitations in their response.

Invitees who are invited to participate in subsequent processes (should such eventuate) will be provided with a full specification for the relevant goods/services/works at that time.

2. Invitee To Make Enquiries

Invitees are advised and expected to ascertain for themselves the actual extent and nature of the goods and/or services required, as Council will not entertain any claim arising from a failure to do so.

3. Contact Staff

All queries concerning an expression of interest process or these Conditions which do not involve confidential issues must be lodged through Council's electronic tender box, as described in the Expression of Interest. Only queries regarding confidential issues must be made directly to the contact person listed in the Expression of Interest. No statement made by any member of Council's staff may be construed as modifying an Expression of Interest unless confirmed in writing by Council.

4. Response Method and Lodgment Time

Responses must be lodged by electronic mail into Council's electronic tender box and only until the time and date stated in the Expression of Interest.

5. Late Responses

Council may consider late responses in exceptional circumstances.

6. Withdrawal of Responses

An invitee who wishes to withdraw a previously submitted response must immediately notify Council. Upon receipt of such notification, Council will cease to consider the invitee's response.

7. Next stage of the Expression of Interest process

After evaluating all invitee's responses, Council may without limiting other options available to it, do any of the following:

- prepare a short list of invitees and invite further offers in writing from those invitees;
- conduct a subsequent procurement process calling for the goods/services/works or any similar related goods/services/works;
- enter into pre contractual negotiations with one or more invitees;
- decide not to proceed further with the Expression of Interest process or any other procurement process for the goods/services/works; or
- commence a new process for calling for invitee's responses on a similar or different basis to that outlined in the original invitation.

8. Discrepancies and Inadequate Information

Council does not warrant the accuracy of the content of the Expression of Interest and will not be liable for any omission from this document or the Expression of Interest.

If an invitee -

- finds any discrepancy, error or omission in this document or the Expression of Interest;
- considers that any work necessary for the completion of the required goods/services/works has not been adequately described or included in this document or the Expression of Interest; or
- has any doubt as to the meaning or completeness of any portion of this document and/or the Expression of Interest -

it must seek clarification in writing from the contact person listed in the Expression of Interest as soon as possible. Any clarification provided may be given in the form of an addendum to all invitees.

9. Costs Associated with Preparing Responses

All costs and expenses incurred by invitees in any way associated with the development, preparation and submission of a response, including attendance at meetings and the provision of additional information required by Council, will be borne entirely by the invitee. No invitee, whether shortlisted or not shortlisted, will be entitled to make any claim against Council for such costs and expenses.

10. Required Documentation and Information

Responses must be lodged

- in accordance with these Conditions and requirements of the Expression of Interest;
- using, completing and signing the Expression of Interest; and
- in conformity with Council's Overview of Requirements contained in the Expression of Interest.

11. Disclosure of Response Contents and Information

Responses will be treated as confidential by Council. Council will not disclose response contents and information except:

- as required by law (including, for the avoidance of doubt, as required under the Freedom of Information Act 1982 (Vic) (FOI Act);
- for the purpose of investigations by the Australian Competition and Consumer Commission or other government authorities having relevant jurisdiction;
- to external consultants and advisers of Council engaged to assist with an expression of interest process; or
- general information from invitees required to be disclosed by Council and/or State Government policy.

12. Evaluation Criteria

Invitee's responses will be evaluated in accordance with the evaluation criteria listed in the Expression of Interest. Reference checks may be undertaken on both internal and external sources that have not been stated as part of the invitees submission. An invitee's response will not be deemed to be unsuccessful until such time as the invitee is formally notified of that fact by Council.

Council may in its absolute discretion:

- reject any invitee's response that does not include all the information requested or is not in the format specified in the Expression of Interest;
- after concluding a preliminary evaluation, reject any invitee's response that in its opinion is unacceptable;
- disregard any content in an invitee's response that is illegible and will be under no obligation whatsoever to seek clarification from the invitee;
- disqualify an incomplete invitee's response or evaluate it solely on the information contained within it;
- alter the structure and/or the timing of an Expression of Interest process; and
- vary or extend any time or date specified in an invitation for all invitees.

13. No Legally Binding contract

Being shortlisted does not give rise to a contract (express or implied) between the preferred invitee and Council. No legal relationship will exist between Council and a preferred invitee relating to the supply of goods/services/works unless and until such time as a binding contract is executed by both parties.

14. Canvassing

Invitees must not approach, or request any other person to approach any member of Council's staff or Councillor of Council individually:

- to solicit support for their responses; or
- otherwise seek to influence the outcome of an Expression of Interest process.

The response of any invitee which engages in conduct prohibited in the Expression of Interest may not be considered by Council.

15. Compliance with Law

Invitees must comply with all applicable laws in preparing and lodging its response and in taking part in an Expression of Interest process. Any invitee, if requested by Council, must submit evidence of its compliance with any relevant laws.